

1502

THE
PRACTICE
OF THE
COURTS
OF
KINGS BENCH
AND
COMMON PLEAS:

Wherein the Order and Method to be used in Commencing Actions and Suits at Common Law, with the Regular Proceedings to be Observed in the Management of the same, as well in those Superior Courts, as in other Inferior and Limited Jurisdictions, from the Original or first Process to the Execution, are Plainly, Methodically, and Succinctly handled, according to the Course and Mode of Practice now in Use.

ALSO,

An INTRODUCTION containing an Historical Account of the late Innovated Clause of *Acciam Bille*, &c. in Process: With an Inquiry into the Power of Charters granted to Corporations and Franchises; and what Equitable Construction may be made thereupon, as to Appearances, taking of Bails, Putting in Declarations, and other Proceedings in the Inferior Courts appertaining thereunto.

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MVSEVM
BRITANNICVM

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To the Reader.

T O T H E
REAEDR.

THE Practice of those Great
and Eminent COURTS
of LAW, hereafter dis-
coursed of, ought to be the parti-
cular Care and Study of the Clerks
and Attornies belonging thereunto,
that they may be the better capa-
citated to perform their Clyents
Busines, in the several Causes
they shall from time to time Under-
take, either to Profecute or De-
fend for them.

To the Reader.

The Office of Entering Clerk or Attorney in either of these Courts, is an Employment that requires great Skill and Industry in its Management; therein Persons of the Most Refined and Polite Parts and Accomplishments, both Natural and Acquir'd may have Scope enough to exert all the excellent Endowments of their Minds; for the greatest Qualifications are (no more than) requisite to Constitute a Perfect Entering Clerk, who designs to be Master of the Science of Good Pleading, the most Nice and curious Part of our Law, which is in it self founded upon the Solid Basis of Right Reason.

These Natural Virtues and Artful Acquisitions of the Mind, are Flowers that happen not to grow spon-

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spontaneously in every Mans Garden; nor is it in every ones power to arrive to that Pitch of Learning his Employment requires. Many live too remote from the Courts at Westminster, those Fountains of Law, and withal (peradventure) want a competent Study of Books, and the suitable conversation of Experienc'd Enttring Clerks to inform and improve their Judgments in point of Practice; therefore for the Benefit of such persons, Books of this Nature are chiefly design'd.

But as no Humane Law can be wholly exempt from the common Fate of Humane Things, so the Practice of the Courts of the Common Law of England must sometimes (of Necessity) be subject to particular Defects and
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Mutabilities, occasioned by the various Accesses and Alterations in point of Commerce and Dealing, which are yet remedied and set right again either by Acts of Parliament, or General Rules of Court.

The often revolving in my Mind, the several Matters before premised, hath stimulated me on to the framing this Collection; which as it bears a fresher Date than any other now Extant, containing every thing of Moment to this time, so it will consequently be found more agreeable to the present Practice; wherein I have expatiated and been very particular, as to those matters where others have been (in my apprehension) too general, namely, in the Practice of the Court of Kings Bench.

As

To the Reader.

As to the Practice of the Court of Common Pleas; It is Branch'd out into the several Præcipes on which all Actions whether Real, Personal or Mixt in this Court are grounded.

I have also touch'd at some of those Real Actions, which shew the Harmony and Excellent Oeconomy of the Practice of that Court, a Point of Learning too much neglected, and without the knowledge of which (in the Opinion of several Eminent Clerks, my Seniors, at whose request I took Cognisance of them) no Practicer deserves the Name of a Clerk of the Court of Common Pleas.

Lastly, I have proceeded to give a Short Account (so far as the Volume will bear) of Feign'd Actions,

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ons, viz. Fines and Recoveries for
Assurances of Estates: Reserving
the Discourse of Mixt and Personal
Actions in this Court to another
Opportunity.

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THE
METHOD
OF
Commencing ACTIONS
AT
Common Law.

CHAP. I.

*Of the Order and Method to be
used in Commencing Actions and
Suits, in general, at the Com-
mon Law.*

EVERY Person impleaded ought to
be brought into Court, to answer
what the Plaintiff hath to say against
him, by such Process, as is most
proper to the Court in which he is prose-
cuted, and to the Action which is com-
menced against him.

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The Method of Commencing

As, if the Action be commenced in the *Kings Bench*, then the Process ought to be either a Bill of *Middlesex* or a *Latitat*.

But if the Action (in that Court) be *Trespass*, *Ejectione firmæ*, and the like, which are *vi & armis*, then the Suit may be there by Original Writ issuing out of the Court of *Chancery* (as the Course is, and hath been always used in the Court of *Common Pleas* in Personal Actions) and then the first Process upon the Original there, is a *Pone*, and *Distringas* against the Defendants Lands and Goods, (as in the *Common Pleas*) and not against his Body; For until a *Nichil habet* be returned, there neither in *Trespass*, or other *Personal Action*, lieth a *Capias* against the Defendant.

And therefore if the Sheriff return a *Nichil* against a *Freeholder* of the County, whereby he is taken by *Capias*, or outlawed in the same County, such Sheriff may well be charged in an Action upon the Case.

But, as it seems by the Course of the *Exchequer*, upon a *Quo minus*, or an *Information*, they use sometimes to award an Attachment against the Body, at the first, or at their pleasure to draw the Party to appear by *Subpœna* and Attachment.

The like Process of *Subpœna* and Attachment are also used in the Court of *Chancery* for Matters of Equity there.

Also in the Court of the Duchy of *Lancaster* they proceed by Privy Seal and Attachment.

So in the Counties Palatine of *Chester*, and *Durham*, before the Chamberlains there, the course

course is to Summon the Defendant by Letters of Attendance, and if he comes not, to cause him to appear by Attachment.

But in Corporations and Franchises it hath been used to attach the Defendants by their Bodies, or according to the Tenor of their Letters Patents, or Charters, agreeable to the course of the Common Law, which were formerly granted for the most part, if not altogether, to arrest those that were *Minus habiles*, that is to say, *Insufficient for want of Freehold*, whereby (as it seemeth) they could not Arrest by the Body a Freeholder of any Corporation, or Franchise, but were obliged to draw him to answer by the Issues of his Land.

For there neither did, in Times-past, nor doth, at this day, a *Capias* lie against a Baron, or any of the Nobility of Higher Degree (unless upon a Contempt) because of the Presumption which the Law hath, that such a Person hath Land, although he hath not.

Also the Sheriff, or other Officer, in his County or Jurisdiction, is bound to take Cognizance of all the Freeholders therein.

And therefore, if the Charter, or Patent of a Corporation or Franchise, were granted to arrest by the Body generally, then should it intend only those (as before-mentioned) whom the Law taketh to be insufficient for want of Freehold, or Estate Personal within the Jurisdiction.

And if the Charter or Patent, gave power to arrest all manner of Persons within their Jurisdiction, as well sufficient, as insufficient, in

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that Point some doubt in Law might be made of the Validity of such Charter or Patent.

For it seems but reasonable, that a Freeholder of a Corporation or Franchise, not dwelling within the Jurisdiction of the same, may by Distress, and Issues returned upon his Land within the same Corporation or Franchise, be drawn to answer any Mans Suit there. *Quere inde*, and the Words of the Charter.

But notwithstanding the Reasons above-mentioned (against arresting by the Body, upon mesn Proceſs, any Freeholder, or other Person having sufficient within any County, Corporation or Franchise) are consonant to the ancient Fundamental Laws of this Nation; yet the Current of Practice hath run otherways for a long time, and Special Bail formerly taken upon *Latitats*, and Bills of *Middlſex* in the *Kings Bench de placito Transgreſſionis* only, by marking the Back of the Writ for what Sum the Plaintiffs Attorny pleased.

Which being complained of in Parliament, an Act was made *Anno 13 Car. 2. cap. 2.* Forbidding Special Bail to be taken upon any Proceſs, unleſs it were mentioned to be in Debt for twenty pounds or upwards; and that in all other Actions, the true cauſe of Action ſhould be ſet forth at large, in the Writ upon which the Defendant was to be arreſted, *ad dampnum, vel valenciam viginti librarum*, or upwards; otherwiſe a Common appearance to be ſufficient.

Whereupon the Clause of *Acetiam Billæ* was inſerted in Bills of *Middleſex*, *Latitats*,
and

and other Proceſſes iſſuing out of the Court of *Kings Bench*, which was afterwards controverted by the then Chief Juſtice of the *Common Pleas*, Sir *J. Vaughan*, and ſtrenuouſly defended by Sir *J. Keiling* then Chief Juſtice of the *Kings Bench* (Sir *Matthew Hale*, at that time Chief Baron of the *Exchequer*, being Umpire between them) but without any advantage gained by Sir *John Vaughan* on his ſide; for the Court of *Kings Bench* ſtuck to their former Meaſures, and retained the Clause of *Acetiam Billæ* in their Proceſſes, not regarding the Tenor of the ſaid Act, but holding Defendants to Bail upon their *Acetiams* for ten pounds, according to the Cuſtom of that Court (as then was pretended.)

Which Proceedings were at that time much regretted by the Entering Clerks, and Attornies of the Court of *Common Pleas*.

But the prudent Management of that Affair ſometime afterwards, by Sir *Francis North*, who ſucceeded Sir *John Vaughan*, in the Office of Chief Juſtice of that Court, *Reſtituit rem* (as was ſaid of old by *Ennius* in another Caſe) ſet them right by bringing *Acetiams* into the *Common Pleas* Proceſſes, by Rule of Court; ſo that ever ſince to this day, Special Bail hath been, and is now taken for ten pounds, and upwards, upon meſn Proceſſes iſſuing out of the Courts of *Kings Bench* and *Common Pleas*, by the Special Rules, and Orders of the ſaid Courts; But this by way of Corollary.

Then touching Real Actions, and other Actions of a mixt nature, and therefore called mixt Actions, as *Formedon*, *Dower*,

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Partitione facienda, Quare Impedit, Wast, and the like, and the Proceſs thereupon, ſee the *Register of Original Writs, Fitzherberts Natura Brevium*, and the third Chapter in this *Treatiſe*, relating to the Practice of the Court of *Common Pleas*.

And note, That upon Proceſs in real and mixt Actions, after the Defendant, in caſe where he may be eſſoined before Appearance, hath taken thoſe Advantages which he ought to do; (for which ſee the *Abridgments of Brook and Fitzherbert, Gregories Mootbook*, and *Kitchin of Courts*, in the *Titles of Eſſoyn and Saver of Defaults*) then is he to make his Appearance, which in ſome Caſes he may do *gratis*, where he hath a day by the Roll, although the Writ be not ſerved, as for doubt of Imprifonment, or loſs of Goods or Lands.

But otherwiſe it is where no ſuch loſs enſueth, if the Writ be not ſerved.

As upon *Scire facias ad audiend. Errores*, or to allow a Pardon, as is 3 *H. 7. 8.* and 39 *Ed. 3. 7.* there no Appearance *gratis*, until the Writ be ſerved, although the Defendant have a day by the Roll, as it ſeemeth.

And therefore if the Defendant appear upon a *Capi. Corpus*, and the Plaintiff be eſſoined, the Defendant ſhall have day without Mainpriſe, as all the Books are.

And by that reaſon, if, in that Caſe the Plaintiff (in a Corporation or Franchiſe eſpecial) at that time have not his Declaration ready, but hath a day given him (as it ſeems he may have at his pleaſure) the Defendant may have *idem dies* without Mainpriſe.

For

ACTIONS at Common Law.

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For if the Defendant appear as Prisoner at the Bar, it is no reason that he should stay in Prison until the Defendant hath declared against him.

Quære tamen inde, for if the Law should be so, then in *London*, and other Corporations and Franchises, where, for the most part, the Plaintiff hath not his Declaration, ready, the Defendant were in a manner discharged.

But, as it seems, in Corporations and Franchises, the Surety is as well to answer the Action, as for the Defendants Appearance; and the Statute that obligeth the Party to put in his Declaration within a certain time thereby limited, seems to intend, that the Defendant in this Case hath no such advantage.

Yet forasmuch as it seemeth that Bail taken out of Court upon Arrest, ought in all reason to be only but for Appearance (as hath been heretofore in the Kings Courts upon Arrests by the Sheriff) as well for that the cause of Action in most Cases there is uncertain, as that it is in the discretion of the Court to take the Defendants own Bail, if he be sufficient, or otherwise.

But that they in Corporations and Franchises will seldom do, because in default of sufficient Bail, the Officers are obliged to answer the Party.

And when the Defendant appeareth, and seeth by the Declaration of the Plaintiff, to what he will declare, then he is more properly to put in Bail, when his Sureties may be the more certainly instructed of the cause of Action.

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And therefore if the Plaintiff have not then his Declaration ready, and the Defendant come in Person, it is reason that he go by his own Bail, and not to lie in Prison until the Plaintiff hath declared against him.

But the Practice is otherwise, for in the *Kings Bench* the Bail do not only answer that Action unto which they were Sureties for the Defendant upon his Arrest, but all other that the said Defendant shall be that Term impleaded upon, at least by the Plaintiff himself. *Quære tamen inde*, and see the Practice of the Court of *Kings Bench* in the next Chapter of this Book.

And because the Plaintiff may as well declare immediately upon the Defendants appearance, as after, it may not be altogether improper in the next place, to shew the Time limited by the Statute for putting in Declarations.

By the Statute of 8 *Eliz. chap. 2.* If any Person be arrested, and appear in the Court of *Kings Bench*, and the Plaintiff do not within three days after Bail put in, declare, or after Declaration, do not prosecute, Then the Judges of that Court shall award to the Defendant Costs, &c.

And touching those arrested in the *Marshalsey*, or other Courts, if the Plaintiff do not, in all Courts, having continuance *de die in diem*, within three days, after the Defendant shall be bailed, or appear in Court; and in other Courts, at the next Sessions or Sitting, after the Arrest (unless a farther day shall be specially given by discretion of that Court) put in his Declaration, or afterwards

wards do not prosecute, &c. Then the Judge shall forthwith award to the Party arrested his Costs and Charges by any means sustained, by reason of the same Arrest, to be had and recovered, as by the same Statute appeareth.

Also it appears by the Course of Proceedings in the Court of *Kings Bench*, agreed upon by the Ancient Clerks of the same Court on the second day of *April 1669*. That if a Cause be removed in the Vacation Time out of *London, Middlesex*, or the *Marshalsey*, or other Courts within five Miles of *London*, by *Habeas Corpus* returnable *immediate*, and Bail be put in of the next Term, if the Plaintiff do not put in his Declaration, or deliver the same to the Defendants Attorney, eight days before the end of the Term, the Defendant may imparle of course.

But if the Declaration be delivered eight days before the end of the Term, then the Defendant shall plead to Issue.

And in *Michaelmas*-Term, if the Declaration be delivered before the Effoyn-day of *Crastino Animarum*, and in *Easter*-Term before the Effoyn-day of *Mense Paschæ*, then the Defendant to plead to Tryal the same Term.

Also by the Introduction to *Mr. Vidian's Entries* it appears to be the settled Practice and Course of the Court of *Kings Bench*, that the Plaintiffs Attorney must deliver to the Attorney of the Defendant (after Special Bail put in before a Judge) his Declaration, within the end of the Term following, or else be Non-suited, and pay Costs according

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according to the Statute made in the Reign of King *Charles* the Second; but he need not file his Declaration until the Defendant hath pleaded, nor is it Prudence so to do, lest he may have cause to alter it, which cannot be done after the same is once filed.

Also (as there is said) the Plaintiffs Attorney ought to deliver to the Attorney of the Defendant a Copy of his Declaration before the *Essoyn*-day of the second Term, otherwise the Defendant is not obliged to plead till the third Term.

And then the Plaintiffs Attorney must get the Secondary to give two Rules for answer, to be entred with the Clerk of the Rules, each four days; Then, when the Defendant hath pleaded, if it be a General Issue, the Plaintiffs Attorney may give notice of Trial in *London* or *Middlesex*, eight days before the day of Trial, if the Defendant live within forty Miles of *London*; but if he live farther from *London*, then there ought to be fourteen days notice given to the Defendants Attorney.

And note, That for the executing a Writ of Inquiry of Damages, the Defendants Attorney ought to have the like notice.

Then touching the time of declaring in the Court of *Common Pleas*, it appears by Mr. *Corys* Rules to have been the constant Practice of that Court, That if the Defendant be arrested upon mesn Process in *London*, or any other County or City, the Plaintiff may declare against him in such County or City, where he was so arrested, or may lay his
Action

Action in any other County in *England* at the Plaintiffs Election; and the Defendant is obliged to accept of as many Declarations (by himself or his Attorney) in any Action whatsoever, at the same Plaintiffs Suit (real Actions only excepted) as the Plaintiff hath cause to declare against him.

But the Defendant is only obliged to put in Bail to the first Action (if it shall require Bail) and only to appear to all such other Actions, as shall be brought against him by the same Plaintiff (as aforesaid) and to receive Declarations thereupon, without putting in Bail thereunto (except in the first Action, as aforesaid.)

Yet, notwithstanding, the Defendant is not obliged by the Rules, or usual course of Practice of that Court to accept of Declarations at any other Persons Suit, than the Plaintiff, at whose Suit he is arrested, as the course is in the Court of *Kings Bench*; for that, there the Defendant is supposed to be in *Custodia Marescalli*, and so to answer all the Declarations shall be brought against him.

Likewise upon any Writ sued out of the Court of *Common Pleas*, returnable in any Term, the Plaintiff hath that Term, wherein the Writ is returnable, and until the last day of the subsequent Term, to declare against the Defendant, but not afterwards.

And if he doth not then declare, the Defendant upon a Rule given, with the Secondary of that Office, where the Plaintiffs Attorney to the Writ doth enter, may there
sign

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sign a *Non prof.* and take out an Execution thereupon for his Costs.

The same time is also allowed to the Plaintiff in the Court of *Kings Bench*, to declare against the Defendant, otherwise the Defendant may there have a Non-suit.

In like manner, upon pleading *Non assumpsit*, *Nil debet per Patriam*, or any other General Issue, the Defendant may after a Rule given, Non-suit the Plaintiff, (if he doth not enter the Issue) and get Costs signed by the Prothonotary, and enter up Judgment after this manner, *Quia non junxit in exitum, nec ulterius est prosecutus breve suum predictum.*

But if the Defendant doth plead, as before, and the Plaintiff replies not in due time, the Defendant must move the Court to give a day peremptory for the Plaintiff to reply; which if he doth not by the time limited, Judgment shall be awarded against him *pro defectu Replicationis*; For, in this Case, the Plaintiff cannot have Judgment of Course, but must move the Court to have the same.

C H A P. II.

*Of the Practice of the Court of
Kings Bench.*

Hitherto We have discoursed of the Method of commencing Actions in General, in several Courts, as well Inferiour as Superiour; with some Inquiries into the Power of Charters, and Patents granted to Corporations, and other Franchises, as to Appearances, taking of Bails, and other Proceedings therein; as also of the time of putting in Declarations, according to the Statute, in the Court of *Kings Bench, Common Pleas, Marshalsey*, and other Inferiour Courts; likewise the manner of preventing or granting Non-suits in those Courts, where the Plaintiff hath not declared in time, after his arresting the Defendant upon mesn Process: We therefore now come to proceed regularly to shew the Order and Method which ought to be observed in the management of Causes in the Court of *Kings Bench* from the Bill of *Middlesex*, or Original, to the Execution.

If the Action be laid in *Middlesex*, and the Plaintiff intend to proceed by Bill, without the Kings Writ, then the first Process is a Precept to the Sheriff (called a Bill of *Middlesex*) returnable at a certain day, (as
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all the Proceſs of this Court are, and all Writs of Priviledge at the Suit of the Officers of the Court of *Common Pleas*) and never hath any Date or *Teſte* to it.

But if the Action be laid in any other County, Place or City, (and the Plaintiff, as before hath been ſaid, intends to proceed by Bill, and not by Original) then iſſues out a *Latitat* (in the nature of a *Teſtatum* in the *Common Pleas*) which recites the Bill of *Middleſex*, ſuppoſing the Sheriff of that County could not take the Party by reaſon of his abſconding himſelf in that County to the Sheriff whereof the *Latitat* is directed; This Writ is always in the Kings Name; and although it ſuggeſts the Bill of *Middleſex* to have gone before it, yet that is only *pro forma tantum*, for it is never actually ſued out.

When the Defendant is taken, either upon the Bill of *Middleſex* or *Latitat*, and the Writ be returned, the Plaintiffs Attorney upon the day of the return thereof, muſt give a Rule with the Clerk of the Rules, for the Sheriff to return the Writ; or if that Sheriff to whom the Writ was directed, be gone out of his Office, then the Plaintiffs Attorney muſt make a *Diſtringas* to the new Sheriff to compel his Predeceſſor to return the Writ.

But in Caſe where the Defendant is arreſted by the Bailiff of a Franchiſe or Liberty (having power by Charter to execute and return Writs and other Proceſs) then he muſt return his Warrant back to the Sheriff, or be compelled to do it by Rule of Court, or *Diſtringas* directed to the Sheriff to diſtrain

strain the Bailiff, and cause him to be amerced that way.

And when the Defendant appears, if the cause of Action requires Bail, he must put in Special Bail, before a Judge, and then the Plaintiff hath thereupon twenty days to allow of the Bail so put in, or otherwise to except against the same, and cannot be forced to accept of the Bail, but by Rule of Court, for no Judge can take Bail at his Chamber absolutely, but *de bene esse*.

After Bail is taken, and accepted of, the Plaintiffs Attorney must before the end of the next Term following put in his Declaration, or else be Non-suited, and pay Costs according to the Statute, but needs not file it till he receives the Defendants Plea, for fear of having occasion to alter it, which (if once filed) cannot be done.

The next thing the Plaintiffs Attorney is to do, must be to deliver a Copy of the Declaration to the Defendants Attorney, which must be done before the Efsoyn-day of the second Term after the Arrest, otherwise the Defendant is not bound to plead till the third Term after.

And after the Plaintiffs Attorney hath delivered a Copy of the Declaration, as aforesaid, he must, in the next place, give two Rules with the Secondary for the Defendant to answer; which Rules must be entered with the Clerk of the Rules, each of them four days successively; and when the Defendant hath pleaded (in case where it is a General Issue) the Plaintiffs Attorney may give notice of Trial in *London or Middlesex*,

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sex, or within forty Miles of *London*, eight days before the day of Trial; but if the Defendant happen to live farther off than forty Miles from the place where the Cause is to be tried, then he must have fourteen days notice before the day of Trial.

The like Practice is to be observed in giving notice to the Defendants Attorney, when the Attorney for the Plaintiff intends to execute a Writ of Inquiry of Damages.

But if the Defendant happens to plead a Special Plea, then his Attorney must get the Secondary to give a Rule thereupon for the Plaintiff to reply, which he hath commonly five days to do it in; within which time if the Plaintiff shall neglect or refuse to reply, a Non-suit may be entred against him, unless the Plaintiff or Defendant gain more time of the Court, by motion, setting forth their Reasons for the same.

In like manner the Plaintiff may give to the Defendant a Rule to rejoin to his Replication.

And note, That each Party must pay to the Clerk of the Papers for every Sheet of his Special Plea 4 *d.*

And for every Sheet upon Issue or Demurrer join'd 8 *d.* for the Paper Book of the whole Issue or Demurrer.

Note also, That the Defendants Attorney may at any time (after a Special Plea pleaded, and before he hath set his Hand to consent to the entry of a Special Issue) plead any General Issue, and waive his Special Plea.

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In the next place, some Rules shall be laid down to shew where the Defendant ought to plead the General Issue, and in what cases he ought to plead Specially, or demur to the Declaration.

And first you must know, that this Court holds not Plea, of any Real Actions, but only of Personal Actions, as Account, Actions of the Case, Covenant, Debt, for Rescous, upon the Statute, Trespass and the like; and of Ejectment, which is a kind of mixt Action, wherein the Land, and Damages are recovered.

In Account, the General Issues are, *Nunquam fuit Ballivus*; or, *Nunquam fuit Receptor*; or, *Nunquam fuit Ballivus, seu Receptor*.

In Actions upon the Case, the General Issues are various according to the Nature of the Action, which is multitarious; as, in an Action upon the Case, upon a Promise, or *Assumpsit*, the General Issue must be, *Non Assumpsit*; or, *Non Assumpsit infra sex annos*, upon the Statute of 21 Jac. of Limitations.

Or, the Defendant may plead, That he did assume and promise in other manner than the Plaintiff hath declared against him.

Or, he may plead payment of the Mony promised; or, that he gave some other thing to the Plaintiff in satisfaction thereof.

So likewise in an Action of the Case for Slander of the Person of a Justice of the Peace, a Clergy-Man, an Attorney, Clerk of the Office, or other Officer of the Court, or of a Tradesman, Virgin, or other Feme sole, or common person, for words of Treason,
C Forgery,

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Forgery, Perjury, Witchcraft, Theft, Incontinency, &c. Or, for flandering the Plaintiffs Title to his Estate; In all these the General is, *Not Guilty*. But the Defendant may plead specially to any of them, by way of Justification, as, *That the Plaintiff is a Traytor, a Forger of Deeds or Writings, or, is Perjur'd, or, a Witch, a Thief, a Whore, Incontinent, &c.* Or, the Defendant may plead, that he did speak other Words, and traverse the Words laid in the Declaration.

Also to an Action upon the Case upon a Warranty of Goods or Chattels; or, for a Nuisance or Disturbance; or, for Negligence or Deceit; or for a voluntary Escape in a Sheriff, Mayor, or Bailiff of a Corporation, Franchise or Liberty, the General Issue is, *Not Guilty*.

And so it is to an Action of Trover, although to that the Defendant may plead specially, that he hath a Property in the Goods and Chattels supposed by the Declaration to have come to his hands; and that either by Sale, by Pawn, or as *Waits and Estays*.

In like manner in an Action of Covenant either upon Indentures, or Articles, or upon other Writings, the General Issues are, *Non est factum*, or *Infra statum*, or Covenants performed generally: Or, the Defendant may plead the same specially, and shew how he hath performed every Covenant, the breach whereof is laid to his Charge in the Declaration.

Then for the General Issues in Actions of Debt, whether they be upon Writings Special; as Records in Courts Superior or Inferiour;

Inferiour; or upon Acts of Parliament, or upon Statutes Merchant, or of the Staple; or upon Recognizances in the nature of those Statutes, or upon general Writings, as Bonds, or Writings Obligatory, Bills penal or single. The General Issues in these Actions are *Nil debet per Patriam*, and to the Bonds, Conditions performed generally or specially; and to a Bill penal, *Solvit ad diem*, which cannot be pleaded to a Bond, because there is no day of Payment mentioned in the Obligation; also to Actions of Debt upon Bonds and Bills penal or single, or any Writing under Seal, may be pleaded *Non est factum*, generally, or specially for Rasure, Interlineation, Delivery thereof as a Schedule or Escroul upon Conditions not performed, or that the Condition of the Bond, or Bill penal were falsly read, and expounded to the Defendant, being a Layman, illiterate, &c. Or the Defendant may plead Payment, or an Acquittance, or Release, or *Infra etatem*, *Per Minas* or *Per Dures*.

But to Actions of Debt upon simple Contracts without Writing, as upon a *Mutatus*, *Emisset*, Account, Lease parol, for Dyet and Lodging, &c. or for Agistment of Cattle, the General Issue is *Nil debet per Patriam*, or the Defendant may plead *Nil debet per Legem*, that is, Wage his Law; and therefore it is counted the most prudent way for the Plaintiffs Attorney to bring Actions upon the Case for all manner of simple Contracts, to prevent Wagers of Law thereunto.

But if the Defendant waives the waging of his Law, he may plead to these Actions

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upon simple Contracts, Payment, Acquittance, Release general, or Nonage.

Likewise if Debt be brought against an Attorney, Entering Clerk, or other Officer of this Court, (without the usual Method of filing a Bill against him according to the Course or Practice of the Court) he may plead his Writ of Privilege signed by the Secondary, and under Seal of the Court, and so supersede the Action, and discharge himself from the undue Prosecution thereupon, whether he be impleaded, sued or arrested in the Courts of Common Pleas, or Exchequer, or in any Inferior Court.

Likewise if a Feme Covert be arrested by Process of this Court without naming her Husband, she may plead, that she was *Covert de J. S. son Baron tempore exhibitionis Bille querentis*: To which the Plaintiff may reply, That she *Ne unques fuit accouple en loyal Matrimony*: But this Issue must be tried by the Certificate of the Ordinary or Bishop of that Diocese, wherein she pretends in her Plea to have been married.

Likewise if an Action of Debt be brought in this Court, upon Specialty, simple Contract, or otherwise, against an Executor or Administrator for Money due by the Testator, or Intestate, in his Life time, the best way is for them to plead *Plene administravit*; for it is dangerous for an Executor to plead *Quod nunquam fuit Executor, nec unquam administravit tanquam Executor*, because if any thing be proved to be in his hands, he must answer it *de bonis propriis*, and therefore by his pleading *Plene administravit* he avoids that danger. And

And note, That if an Executor hath a Debt due to him upon Bond from the Testator, he may retain Goods in his hands to satisfy himself first, before he pay any other Creditor in equal degree with him.

But if his Debts be upon Contract he must satisfy Debts due upon Bond first; and the Opinions are various in the Reports, whether he may plead *Plene administravit*, and set forth his Debt, and how that he retains Goods specially to satisfy himself; or whether he ought to specify the Goods which he retains or not.

But Resolved, That an Executor of his own wrong cannot retain Goods to pay himself.

The General Issue in *Ejectione firmæ* is now settled by Rule of Court to be only *Non culpabilis*; For although formerly the Defendant might have pleaded *Non ejecit*, or any Title specially, now that way of pleading is wholly laid aside.

And *Trin. 14 Car. 2.* It was ordered by this Court, That in every Action of Trespass and Ejectment to be brought after that time, in this Court, if the Lands did lie in the County of *Middlesex*, then a Bill of *Middlesex* should go forth, and if the Lands lay out of the County of *Middlesex* then a Writ of *Latitat* should be taken out against the Casual Ejector named Defendant in every such Action.

Also that Common Bail should be filed for such Defendant before any Declaration by Bill in such Action shall be delivered to any Tenant in possession of the Lands

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in such Declaration specified. And that if the Attorney for the Plaintiff (of this Court) should fail in the Performance thereof, then no Judgment shall be entred for the Plaintiff against the Casual Ejector, nor shall the Tenant in possession confess Lease, Entry and Ouster of the Tenements in such Declaration mentioned at the Tryal of the Issue between the Parties aforesaid.

And in *Trin.* 15. of the same King, it was ordered by the Court, that in every Action of Trespass and Ejectment, Where by Rule of Court the Defendant ought to confess Lease, Entry and Ouster, for so much of the Premises, in the Declaration mentioned, as is in the possession of the said Defendant or his Under-Tenants, The said Defendants Attorney should forthwith deliver to the Attorney of the Plaintiff a Note in Writing of the Tenements so being in the possession of the said Defendant or his Under-Tenants.

ACTIONS upon
the Statute.

Then touching the Method of declaring in Actions upon the Statute, the Rule to be observed in this Court is, Where the Plaintiffs Attorney declares upon a General Statute he must not recite the whole Statute in the Declaration *verbatim*, but only the Substance of it; and the Declaration ought to conclude with these Words, *Contra formam Statuti inde edit' & provis'*, as in Case of Debt upon the Statute of 2 *Ed.* 6. for Tythes, and 32 *H.* 8. for Maintenance, or 21 *Jac.* 1. for Monopolies, &c.

The General Issue in Actions upon the Statute, is, *Not Guilty*.

By

By the usual Practice of this Court, every Action of Trespass, Assault or Imprisonment arising in any English County, ought to be laid in their proper Counties, unless they arise where the Justices of *Nisi Prius* do seldom come.

And because every Trespass, Assault, Battery and Imprisonment must of necessity be notorious in what County they arise, therefore no Attorney of this Court ought to lay them out of the proper County, where they shall arise, except for the reason before mentioned, or for some other Cause to be allowed by the Judges of this Court.

And forasmuch as it hath been the constant practice of this Court in Actions of Trespass to mention in the Declaration the place certainly where the Trespass was committed, therefore the *Common Bar* and *New Assignment* are not to be pleaded, because the certainty of the place expressed in the Declaration is equivalent to a New Assignment.

Yet if in Trespass *de Clauso fracto* the Plaintiffs Attorney doth not set forth a place certain in the Declaration, by Name and Boundaries, where the Trespass was done; the Defendants Attorney, hath no other way but in his Plea to pretend that the place where the Trespass was committed is *Black-acre* or *White-acre* (or some such feigned Name, wherein he is certain the Plaintiff hath no Title) containing so many Acres, lying in such a Field or Close and Parish, which he pretends to be the Defendants Freehold, and therefore justifies the Defendants

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dants committing the Trespafs therein, it being lawful for him so to do; and this feigned Plea is called the *Common Bar*, by which the Plaintiffs Attorney is obliged by his Replication to assign the true place where the Trespafs was done, which is called the *New Assignment*.

Then where the Defendant in Trespafs, Affize, Entry *sur Disseisin* of Rent, Forcible Entry, and the like, doth plead a Title to Lands or Goods, he ought (after he hath set out his own Title) to shew colour, that is to say, pretend some sort of Title to be in the Plaintiff; otherwise his Plea, wholly devesting the Plaintiff of all manner of Title, would amount to no more than the General Issue, *Not Guilty*.

Or as it is defined in the *Treatise of Maxims and Rules of Pleading* cap. 2. to signify a probable Plea, but (in truth) false, and hath this end to draw the Tryal of the Cause from the Jury to the Judges.

For in Trespafs of Cattle or Goods, or in Land (or in the other Actions above mentioned) where the Defendant is supposed a Wrong-doer, and doth not plead the *General Issue*, but a *Special Plea* to excuse himself of the Wrong, there the Law doth not allow his Plea good, unless he suppose in the Plaintiff some Colour to bring such an Action; for the Law of it self doth not intend any Man so injurious without colour to charge another with Wrongs.

As for Example, The Defendant in Trespafs for taking the Plaintiffs Cattle did plead, that before the Plaintiff had any thing in them,

them, he was possessed of them, as of his own proper Cattel, and delivered them to one *J. S.* to redeliver to him again upon Request; but *J. S.* giving them to the Plaintiff who (supposing the Property to be in *J. S.* at the time of the Gift) took them, from whom the Defendant did afterwards take them, whereupon the Plaintiff brought his Action against the Defendant; this is a good Colour, and a good Plea.

Where Colour may be given, and in what Actions, see Maxims and Rules of Pleading, *ubi supra*, and as to Lands see 15 *Ed.* 4. 31. 2 *H.* 6. 15. and 10 *H.* 7. 14.

And as to special Inheritance, see 8 *H.* 6. 98.

And for Goods, see 9 *Ed.* 4. 23. 9 *H.* 6. 31. 2 *H.* 4. 12. 36 *H.* 6. 7. 10^o *Co.* 88, 89, 90. and 1 *Co.* 79. and 108.

And as to Embleaments see 38 *Ed.* 3. 28.

But as to pleading the *Common Bar* and *New Assignment* it is now seldom done in this Court, but where the Action commenceth here by Original.

If the Defendant in Trespass for Assault, Battery and Wounding of the Plaintiff pleads *Son assault demesne*, he thereby justifies the Wounding.

But if the Defendant justifies by virtue of a Warrant directed to him by the Sheriff to arrest the Plaintiff, or by any other reasonable cause, which will bear him out, then he may say in his Plea, that he *Molliter manus imposuit* upon the Plaintiff, in the Execution of his Office; and *quoad vulnerationem prædictæ superius fieri suppositæ*, he may plead,
Non

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Non culpabilis ; and may plead the Arrest, and other Cause to all the rest ; and conclude *Quæ sunt eadem insult', verberatio, vulneratio & maletractatio prædict. unde prædictus Quer' superius se modo queritur, &c.*

So in Trespafs, Assault and Battery in London, the Defendant pleaded, that he was in the quiet possession of his House in Surrey, until the Plaintiff came in there, although required to depart, whereupon he *Molliter manus imposuit* upon the Plaintiff, & *ipsum ab eadem domo leniter intrusit, quæ sunt eadem Transgr', Insult' verberatio & maletractatio unde prædictus Quer' superius se modo queritur. Absque hoc quod est culpabilis de transgress. insult. verberatione & maletractatione prædict' apud London' prædict', seu alibi extra domum prædict.* here the Plaintiff may either take Issue on the Traverse, if he can prove the Battery in London ; or if he cannot, he must take Issue upon the Assault in Surrey, and the Issue shall be tryed there.

Likewise, if an Action be brought against me for taking away an Horse, at K. and I plead, that I have Waifs and Estrays in my Manor of D. in B. and that the Horse was an Estray there, *infra Manerium prædictum* where I took the same, *absq; hoc* that I am Guilty at K. here the Plaintiff may take Issue upon my Traverse.

If I bring an Action of Trespafs against one for breaking my Close on the tenth of March, and he pleads that he had Common in the place in question from the Annunciation to the tenth of December every year, *absque hoc* that he is Guilty at any time

time before the Feast of the *Annunciation*, or after the tenth of *December*, in this Case I may avoid the Traverse, and take Issue upon the Common.

But if I bring my Action of Trespass against one for breaking my Close on the eleventh of *March*, and the Defendant pleads that I granted him a Licence on the fifth of *May* following, there he must unavoidably traverse his being Guilty at any time before the Licence granted to him, and I may either take Issue on the Traverse, or the Licence, as I shall think fit.

If I bring an Action of Trespass against one for breaking my Close upon the twentieth of *May*, and he pleads a Release of all Trespases dated the first of *May*, he must also alledge the Trespases to be done after the date of the Release, and I may (as above) either take Issue on the Release, or upon the Traverse.

In this Action the Plaintiffs Attorney must set forth in his Declaration the place in certain where the Cattle or dead Goods, were taken, otherwise it will not be good. Replevin.

Also in pleading thereunto the Defendant must either avow the taking of the Cattel or Goods in his own right, or make Cognizance for the taking of them as Bailiff to another, whose Title he must set forth in his Plea, and thereupon shew a reasonable Cause wherefore he did take them.

These Pleas of Avowry and Cognizance are in the Nature of Declarations, and therefore the Replications to them, are called Barrs to Avowries and Recognizances; so the

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the Rejoynder is called a Replication to the Barr of the Avowry or Cognisance, the Surrejoynder a Rejoynder, *Et sic de cæteris*.

Note, The General Issue in this Action is, *Non cepit*, but in pleading that Costs can only be had, and not a Return of the Cattle.

If a place be named in the Declaration where the Defendant had no Right to take the Cattle, special care must be taken neither to avow or make Cognisance there, but to assign the true place, and traverse the place named in the Declaration.

Likewise, he ought to make a Suggestion in the Nature of an Avowry or Cognisance to have a Return of the Cattle, and a Writ of Inquiry of damages, in which Case the Plaintiff cannot take any other Issue, but upon the place, nor can he plead to the Avowry; but the Avowant or Conusant may at his pleasure waive traversing the place laid in the Declaration, and assign a place *de novo*, and avow and make Cognisance there; and then the Plaintiff may plead in Barr to the Avowry or Cognisance, and proceed as in other Cases.

Also the Defendant, if he doth avow *in Jure proprio*, or make Cognisance *come Bailiff*, may plead, That the property of the Cattle, Goods or Chattels, or whatever is sued for in the Plaintiffs Declaration, is in himself or in another person, to whom he is Bailiff; and if a Verdict go for him, or if the Plaintiff happens to be nonsuited, then the Jury will give the Value of the Cattle

Cattle in damages to the Defendant. But in Case a Verdict shall pass for the Plaintiff, then he will recover only some petit damages, as *Occasione captionis & injuste detentionis Averiorum*, or *Bonorum & Catallorum*, and his Costs.

See a special Case in *Croke Car.* of a good Confession and avoydance of a Grant, without a Traverse; where the Defendant in Replevin avows the taking of the Cattle for Rent arrear upon a Rent-Charge granted to him by *J. S.*

The Plaintiff pleads in Barr to the Avowry, That the same *J. S.* the Grantor, long before the making of the Grant of the said Rent-Charge to the Defendant, did by Indenture demise all the Land to him the said Plaintiff, for a certain Term of years, which is not yet expired; This was adjudged a good Confession and Avoidance in Pleading without any Traverse to the Grant, because the Plaintiffs Grant was prior to the Defendants.

There is also in this Court, a Method of Proceeding used in Replevin, by way of Original Writ out of *Chancery*, in Cases where the Action is first commenced in an inferiour Court, and the Plaintiff or Defendant remove the same afterwards into this Court to be tryed and determined here.

For which you must carry a Note of the Plaintiffs and Defendants Names to the Curfitor of that County where the Inferiour Court is held; who (if your Action of Replevin be first laid in the County Court, or Sheriffs Turn) will make you a *Recordari*

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dari fac' Loquelam, or an *Accedas ad Curiam*, if the Plaintiff be first entred in a Court belonging to an Hundred or a Manor.

But if your Action of Replevin be entred in an Inferior Court, which is in it self a Court of Record, then it must be removed by a Writ of *Habeas Corpus cum causa* issuing out of the Court of *Kings Bench*, directed to the Judge, or other Officer or Minister of such Inferiour Court (as the Case requires) and you must pay for a Warrant under one of the Judges Hands of this Court for the Allowance thereof 1 s. in Term time, and 2 s. in the Vacation.

At the day of Return of either of which Writs, you must call for the Return thereof, and then if the Cause be removed by the Defendant, his Attorney must give a Rule of Course with the Clerk of the Rules of this Court, (to this effect) That unless the Plaintiff shall declare within five days a *Non pros'* shall be entred and Damages and Costs allowed to the Defendant, upon a Writ of Inquiry of Damages for that purpose to be awarded by the Court.

But if the Action or Plaintiff be removed out of the Inferior Court (where it was first entred) by the Plaintiff, then his Attorney must carry the Return of that Writ he took out to remove the Cause to the proper Philazer of that County, from whence the Cause was so removed, as aforesaid, who will make for him thereupon, the usual Process in such Cases, *viz.* a *Pone* and Distress infinite, until the Defendant shall appear.

And

And when the Defendant shall appear the Plaintiff must declare against him in the Nature and Method as is used in the Court of *Common Pleas* upon Original, inserting the Addition of the Degree, Quality, Mystery, Trade or Profession, as also the Town, City, Parish, Hamlet, &c. of the place of Abode or Habitation of the Defendant in his Declaration.

And note, That all Writs of *Venire facias Jur.* and *Distingas Juratores* before Tryal of the Cause, and all Writs of Execution afterwards must be retornable *coram nobis, ubicunque fuerimus in Anglia*, and not *apud Westm.* nor at a day certain, as in Cases where the Proceedings are by Bill without the Kings Writ, that is to say, by *Latitat*, without an Original.

Then when the Defendant hath obtained a Nonsuit against the Plaintiff, the Plaintiffs Attorney may get the proper Philazer of this Court to make for him a Writ of *Second Deliverance* directed to the Sheriff to prevent him from making a Return of the Cattle to the Defendant, and thereupon the Plaintiffs Attorney must declare *de novo*, in the same manner as before; and the Defendant must plead to it, and proceed thereupon by way of Avowry or Cognizance, and the Plaintiff must reply by way of Barr to the Avowry, or Cognizance, and then the Defendant in his Rejoynder must reply to the Plaintiffs Barr, *Et sic de cæteris*, as before hath been said.

But

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But note, by the Statute of *Car. 2. cap.*
If the Defendant avows for Rent, the Writ of *Second Deliverance* is thereby taken away, but in all other Cases, the Proceedings are the same, as before.

There is also another way of Proceeding in this Court to remove Causes out of Inferior Courts by Writ of *Cerciorari* and Error; as when an Action is commenced in an Inferior Jurisdiction, which is a Court of Record, and the Defendant is summoned, or attached by his Goods or Mony, such Action may be removed out of that Inferior Court, into the Court of *Kings Bench*, as well by a Writ of *Certiorari* issuing out of this Court, as the Writ of *Habeas Corpus cum causa* before mentioned.

At the day of Return of which Writ of *Certiorari*, the Plaintiffs Attorney may enter a Rule of Course with the Clerk of the Rules of this Court to this purpose, That unless the Defendant shall put in Bail within six days after Notice given to his Attorney, a *Procedendo* shall issue to the Inferior Court for the Plaintiff to proceed there.

But if either the Plaintiff or Defendant get Judgment in the Court below, then may the Party condemned there bring his Writ of Error either in that Court, or in the *Common Pleas*, to remove the Judgment into the Court of *Kings Bench*, upon the Record returned; which Writ of Error must be directed to the Sheriff, or other Officer or Officers of the County, City, Town Corporate, or Franchise where the Action was first commenced to summon the Plaintiff in the

the Error to shew cause why he should not have Execution upon the Judgment.

And note, This Writ of Error must have fifteen days inclusive between the Teste and the Return thereof, and must be returnable *coram nobis ubicunque tunc fuerimus in Anglia*, and not *apud Westm.*) and not at a day certain, as the common course is to return Writs in this Court, where the party proceeds *per Billam sine Breui Domini Regis*, as *die Lunæ prox. post* such a Return) but according to the method used in the Practice of the Court of Common Pleas, viz. *a die Sancti Michaelis in tres septimanas*.

And if the Sheriff, or other Officer or Minister to whom the said Writ shall be directed, shall give notice to the Plaintiff in Error, to shew cause as aforesaid, and make a return of his Writ of Error accordingly, to that purpose, then you must give a Rule of Course with the Secondary, for the Plaintiff, in the Writ of Error, to assign his Errors by such a day, which if he shall not do before the Rule be out, then the Plaintiff in the first Action may take out Execution against him.

Also, if the Sheriff or other Officer Summon not the party Plaintiff in the Writ of Error upon the first *Scire facias*, but returns a *Nichil* upon the same, then you must have an *alias Scire facias* returnable fifteen days after the return of the first *Scire facias*, upon which last Writ of *Scire facias*, if the Sheriff, or other Officer (or Minister of Justice to whom it shall be directed) shall likewise return a *Nichil* again, Those two *Nichils*

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so returned, as aforesaid, do in Law *tantamount* to the return of a *Scire feci*.

But if the Plaintiff shall assign Errors to be in the Record, then the Defendant in Error must plead *in nullo est erratum*, and thereupon enter the Cause with the Clerk of the Papers, for the Errors to be argued.

But, in case the Writ of Error issues out of the Court of *Common Pleas*, the Defendant in Error ought to take care, that he plead not *in nullo est erratum* too suddenly, lest he thereby draw himself into a confession of the Errors, which he may do unwittingly, if the Error assigned, be special, or Matter of Fact.

And so, the like disadvantage may happen, if the Writ of Error come from any Inferiour Court.

But if the Plaintiff in his assigning of Errors upon a Judgment in the Court of *Common Pleas* alleges Diminution, that is to say, That there is some part of the Record, as, the *Original*, *Imparlance*, *Warrant of Attorney*, *Venire facias* *Jur*, and the like not returned, then he must pray a *Certiorari* to bring them into Court, and enter them on Record, and the Defendant in the Error must give a Rule with the Secondary for a day to return the Writ of *Certiorari*, at which day if it be not returned, he will lose the benefit of it, and then you may proceed by *in nullo est erratum*, as aforesaid.

But if the *Certiorari* be returned, and entered, then you must take a Copy of it, and proceed

proceed according as you shall be advised, and your Case requires.

Then if the Plaintiff in Error shall alledge *Matter in fait*, as Nonage, or death of the Plaintiff in the Action before Judgment, the Plaintiff in the Action must plead thereunto, that the Plaintiff in the Writ of Error, was *plenæ Etatis*, or in *plena vita tempore redditionis Judicii*, and take Issue thereupon, and try the same, as you do any other Issue in the County, City, Corporation, Franchise or other place, where the Action below was first commenced.

And note, That all Proceſs thereupon must be returnable *ubicunque fuerimus in Anglia*, and not *apud Westm.* and by a general Return, and not at a day certain, as before hath been said.

There is also an other Writ directed to the Justices of the *Kings Bench*, in this manner, *Justiciariis nostris ad placita coram nobis tenend. assign.* and is called a Writ of Error, *de Recordò quod coram vobis residet*, and is two-fold.

For, first it lies, in case where you would reverse a Judgment in this Court for any Error touching *Matters in fait*, as for Nonage, death of the party before Judgment, &c. and then you must sue out this Writ with the proper Curſitor, and allow it in Court with the Secondary, paying him two shillings for the same, for which he will enter *allocatur* on the back of the Writ, and then you must take a Copy of it, and file it with the *Custos Brevium* of this Court, and get it entred at the end of the Judgment;

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and then you must assign your Errors, and make out your Writs of *Scire facias ad audiendum Errores* against the Plaintiff in the Judgment, and give Rules thereupon, as before directed; and if the Plaintiff in the Judgment will not appear, the Errors shall be taken *pro confesso*, and the Judgment be reversed, provided the Court be satisfied, that the Plaintiff in the Judgment had due notice given him to appear.

And then secondly, it lies where the Record of a Judgment is removed by Writ of Error out of the Court of *Common Pleas*, Court of any City or Town Corporate, Bailiwick or Franchise, into this Court, and the Writ of Error be quashed, for the death of the Plaintiff in Error, or some other such like Causes, then may the Heir, Executor, or Administrator of such Person so dying, have this Writ, and proceed thereupon, as if the first Plaintiff in the Error had been alive.

Note, You need not bring a Writ of Error in Parliament, to reverse a Judgment obtained in this Court, if the Errors be only in Matters of Fact, because this Writ of Error *quod coram vobis residet* may be brought in this Court, where the Judgment was given, to reverse it, but if the Judgment be erroneous for Matters in Law, and the Proceedings were by Original, then this Writ of Error *quod coram vobis residet* will not lie, but the Plaintiff in Error must be forced to bring his Writ of Error in Parliament.

And

And the reason is, because Error in Fact, is not the fault of the Judges, or Act of the Court, though Error in Matter of Law may be said so to be, and then every Act of a Court, that is final, and erroneous, ought to be reversed by a Jurisdiction paramount, and superiour to it in Authority, and cannot be set aside by the same Persons that committed the Error.

Note also, That the Method of reversing Judgments where the Proceedings are upon Bill in this Court, you must allow your Writ of Error, with the Clerk of the Errors in the *Exchequer Chamber* (a Court erected for that purpose by virtue of the Statute of the 27th year of the Reign of Queen *Eliz. cap. 8.*) and proceed by Writs of *Scire facias*, upon Rules given, as above, as the Clerk of the Errors there shall direct you, the Practice there affording not much diversity, being a short, plain and easie Method.

But when such Judgment obtained, as aforesaid, by Proceedings upon Bail, shall be reversed, or affirmed, in the said Court of *Exchequer Chamber*, the then Transcript of the Record thereof will be remitted back into this Court, and be there entred up at the end of the Judgment.

Observe likewise, That if such Judgments as are by Bill be affirmed upon the Writ of Error in the *Exchequer Chamber*, yet may a Writ of Error by the Statute of 27 *Eliz. cap. 8.* above cited be brought thereupon returnable in Parliament, to the great delay and vexation of the Plaintiffs in such Actions, and therefore it would be the most

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prudent way for the Attornies of such Clients who, as Plaintiffs, have occasion to sue for Estates in Land, or Debts or Damages considerable, to proceed by way of Original, that so after Judgment had, Execution may not long be delayed; For in all Actions brought by Bill in this Court, in which after the Plaintiffs have recovered, and are ready to take out Execution, a Writ of Error may be brought thereupon by the Defendant, returnable (as before hath been said) in the Court of *Exchequer Chamber*, and very easie at all times to be purchased; but in all Actions brought by Original Writ, and Judgment thereupon had and obtained, no Writ of Error lieth thereupon but what must be returnable in the High Court of Parliament, and not so easie to be purchased, the Charges thereof being very great, the Fees being most of them, if not all, double to what they are upon Writs of Error returnable in the Court of *Exchequer Chamber*, and upon the affirmation of such Judgments in Parliament, there is always very great Costs given to the Plaintiff in the Action for delay of his Execution, occasioned by such Writ of Error; besides, no Writ of Error can be obtained in such case, but when there is a Parliament in being, for no Writ of Error can or ought to be returnable *ad proximum Parliamentum*, in regard it would be so great a prejudice to their Majesties Subjects, who are, or shall be Plaintiffs in such Actions, the times of convening Parliaments being so uncertain, and only lying in his Majesties Power, as Supreme,

preme, by virtue of his Prerogative Royal to call, adjourn, prorogue and dissolve the same, at his pleasure; so that it is not without good reason, that Writs of Error are so seldom brought upon such Judgments as are recovered upon Actions brought by Original Writ.

But if you would bring a Writ of Error to reverse a Judgment obtained by Original Writ in the *Kings Bench*, or there returnable out of any other Court, returnable before the Lords in Parliament, you must have a Warrant from the King, which the Curfitor will procure for you, and will cost you five pounds, which when you have gotten ready, you must allow it with the Clerk of the Errors of this Court, for which you pay him four pounds; and then in full Parliament the Lord Chief Justice of this Court carrieth the Record, as also the Transcript thereof into the House of Lords in Parliament, and after they are examined there, leaves the Transcript with the Lords to be proceeded upon, and remands the Original Roll of the Record back into this Court again; and then you must get the Prolocutor, or some other Lord to move for you, that the Plaintiff in Errors may assign Errors, if you be for the Defendant in the Writ of Error; but if you be for the Plaintiff in Error, then you must desire him to move, that upon your assigning Errors, the Defendant in the Error may appear, and make his defence thereunto, and hear Council plead on both sides. Then when Judgment is either affirmed or reversed, the

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Clerk of the Parliament will remand the Transcript into this Court, with the Affirmation or Reversal thereof (as the Case is) there to be entred upon Record, at the end of the Judgment.

Some Cases out of the Reports concerning Writs of Error, and first of Writs of Error brought in Parliament.

Error was brought in the *Kings Bench*, upon a Recovery in Affise, and the Judgment there affirmed, and afterwards a new Writ of Error was brought in Parliament upon the Judgment in the *Kings Bench*, and the Error assigned in the *Kings Bench* was, That the parties were adjourned in a Forein County to plead, and upon that Issue the Affise passed, without resummons awarded, *Hill. 23 Eliz. Dyer 375.*

A Recovery was had by the Plaintiff at the Affises against the Defendant in the Action, and at the day in Bank the Plaintiff had Judgment thereupon, and afterwards the same Judgment was affirmed here in the *Kings Bench*, upon a Writ of Error brought by the Defendant in the Action thereupon; Whereupon an other Writ of Error was brought, by the said Defendant in the Action, in the Court of *Exchequer Chamber*, and he had obtained a *Supersedeas* to stay Execution upon the said Judgment; but being afterward informed that no Writ of Error did lie, or could be brought in the Court of *Exchequer Chamber* to reverse a Judgment given here in the Court of *Kings Bench*, but in *Trespas*,
Detinue

Detinue, *Ejectione firmae*, or such like Action, where the Judgment is originally here, and not otherwise; and here in this Case, the Writ of Error did not agree with the Record, so that the Court denied to grant Execution, the Writ of Error not being good, nor any Warrant to remove the Record.

See the Book at large, where it is fully debated, in what Cases a Writ of Error lieth in Parliament upon a Judgment given in the *Kings Bench*, and where the Record shall be thereby removed, and where not, *Hill. 11 Jac. in B. R. Bulstrods Rep. part 2. from fol. 162 to 175. Sir Chr. Heydons Case.*

A *Scire facias* was brought in *Chancery* to have Execution of a Recognizance entred into in that Court, to which the Defendant pleaded a Defeasance made to him by the Plaintiff, which was dated before the Recognizance, which not being good, and Judgment passing for the Plaintiff against him, he brought a Writ of Error in the *Kings Bench*, where the Judgment was reversed.

And here observe, That a Judgment given in *Chancery*, which is before the King himself, reversed in the *Kings Bench*, which is also before the King himself, and not in Parliament, *Trin. 14 Eliz. Dyer 315.*

Note, The Court of *Marshalsey* of the Kings Household, was a Court of such high Jurisdiction, that before the Statute of 5 *Ed. 3. cap. 2.* and the Statute of 10 *Ed. 3. cap. 2.* No Writ of Error would lie of any Judgment given therein, in any Court, but in the High Court of Parliament; But by the

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the same Statutes it was provided, That Errors in Judgments given in that Court, shall now be examined, and redressed in the Court of *Kings Bench*, Vide Co. 10 Rep. in the Case of the Court of *Marshalsey*.

Of Writs of Error brought in the Court of Kings Bench, upon Judgments removed out of other Courts.

If false Judgment be given upon a *Justices* directed to the Sheriff, the Party grieved shall have a Writ of false Judgment, and not a Writ of Error to redress the erroneous Proceedings in the Sheriffs Court, according to 34 H. 6. 42.

But if the Cause be removed out of the Sheriffs Court into the Court of *Kings Bench* by a *Pone*, and Judgment be given here, then the party shall have a Writ of Error, and not a Writ of false Judgment, because the nature of the Court doth change the nature of the Writ.

A Writ of Error was brought to reverse a Judgment in the *Kings Bench*, the Error assigned was, in the entring the Record, which was thus, *Ad quem diem, &c. J. S. J. D. &c. of the principal Panel, ven. & jurat. existunt, Et quia resid. did not appear, &c. W. N. & J. N. de novo apponuntur, qui ad veritatem de infracontent. electi triat. & jurat. dicunt super sacramentum suum.* omitting these words, *Simulcum aliis jur. impanellat.* and because it was a Verdict given only by those of the *Tales de Circumstantibus*, without naming the other Jurors first impanelled, the Court

Court held it to be Error, and the Judgment was reversed, *Pasch. 6 Jac. in B. R. Kenyfton and Bartels Case.*

Error was brought of a Judgment in the *Kings Bench*, for that the Judgment was entered up in this manner, *viz. Quod* (the Plaintiffs) *& pleg. sui de prof. sint in misericordia pro falso clamore suo*, whereas it ought to have been, *Quia non prosecuti sunt breve suum*, for it ought not to be *pro falso clamore*, but in Case where the Judgment is after Demurrer; and therefore it was adjudged to be Error, and the Judgment was reversed, *Mich. 6 Jac. in B. R. Cro 2 part 213.*

A Writ of Error was brought, likewise, of a Judgment in Debt upon an Obligation, with Condition, That the Defendant should appear in the Court of *Kings Bench*, such a Return of next Term following, and put in good Bail. &c.

The Defendant pleaded, That the then next Term was adjourned to the Castle of *Hartford*, and that he, there, put in good Bail; and the Jury finding for the Plaintiff, and Judgment being had for him thereupon at the day in Bank, the Defendant thereupon brought his Writ of Error upon the same Judgment, and the material Error insisted upon by the Council was, That the *Venire facias* was *De vicineto de Hartford*, whereas it ought to have been *De Castro de Hartford*, and this the Court held to be Error, for that *Castrum* is a distinct name of a place by it self; and the Judgment was reversed accordingly, *Pasch. 8 Jac. in B. R.*
Coming-

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Cunningham and Hares Case, in Cro. 2 part, fol. 239.

Also, Error was brought of a Judgment in *Durham*, and the Error assigned was, For that the Defendant was admitted to plead by Attorney, being within Age, whereas he should by the Law of the Land have appeared, and pleaded by his Guardian.

It was holden by the Court, That the Writ of Error was not well brought, for that the Record could not be examined upon this Writ, for these Reasons;

First, Because it appears, that the Writ of Error was directed to the Bishop, and eight others, to remove the Record of the Judgment, and eight of them only certified the Record, and not the ninth.

And secondly, It doth not appear, that the Bishop, who was the ninth person, was either dead or removed, *Mich. 7 Jac. in B.R. Odel and Moretons Case, Cro. 2 part 254.*

So Error was brought in the *Exchequer Chamber* upon a Judgment obtained by Bill in the *Kings Bench*, and it was assigned for Error there,

First, That whereas *D.* the Plaintiff in the Action had brought an Action of Debt, by Bill, against the now Plaintiff, in Error, and declared upon divers Contracts, *scilicet*, That he had sold to *W.* such Merchandizes, for so much Mony Portuguese; and such other Merchandizes for so much Mony to be paid in Ducats, which *in toto* did amount to seven hundred pounds Sterling; which Sum was delivered in Sterling Mony, and not in Portuguese Mony or Ducats, according to the Contract.

Upon

Upon the Declaration, the Defendant in the Action, viz. the said W. demurred in Law, and it was adjudged for D. the Plaintiff.

And the Court held, That it was in the Plaintiffs Election to divide his Debt into which of these Coyns he pleased, viz. either into the proper Coyn of the Contract, or of Sterling, that is to say, currant Mony; wherefore Judgment was affirmed, *Mich. 29 Eliz. in Camera Scaccarii, Wilsadge and Davidges Case, Leon. 1 part, fol. 41.*

A Writ of Error was brought in the Court of Kings Bench, upon a Judgment in the Common Pleas, in a Replevin removed thither by a Writ of *Recordari facias loquelam*, out of a Hundred Court.

And the Error assigned was, because it did not appear, that Pledges were returned by the Sheriff upon the Plaint.

It was agreed by the Court, upon *Husseys Case in Co. 9 Rep. fol. 71.* That if upon the Original Writ Pledges be not returned, it is Error.

But the Court doubted of it in this Case, because the Sheriff may make Replevin, without finding Pledges; and peradventure Pledges were found, though not returned; and it is at the Sheriffs peril, if he take not Pledges, by the Statute of *Westminster, 2. cap. 2. Mich. 15 Car. in B. R. Tregose and Wennels Case, Cro. 1 part, fol. 431. Vide Stat. de Anno 16 & 17 Car. 2. cap. 8. of Feofails.*

Also an Action of Trespass was brought by two Defendants, and Issue was joyned by them both, and after Issue so joyned one
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of them died, notwithstanding which a *Venire facias* was awarded to try the Issue between the Plaintiff and the two Defendants, and the *Venire facias* and the *Habeas Corpora*, and the Issue joyned did all mention, that the Cause to be tried, was between the Plaintiff, and two Defendants, and therefore it was insisted upon by the Council to be Error;

But resolved by the Court, That such surmise needs not to be in Judicial Process to alter it; and therefore though a *Venire facias* issued against a dead person, yet forasmuch as one of the Defendants being alive, it is sufficient, and no Error, *Mich. 11 Car. in B. R. Tiffins Case, Cro. 1 part, fol. 308. and see 4 H. 7. 7.*

Note, It was referred to the Secondary of this Court, where the Party and Sheriff were in contempt of the Court, for taking out Execution upon a Judgment, after a Writ of Error was brought thereupon; who reported to this effect:

That there was a Writ of Error brought upon the Judgment, before the Execution was taken forth; but, that there was no notice given thereof to the party, nor any *Supersedeas* taken out to stay the Execution.

It was said by the Plaintiff in the Writ of Error, That the Execution was awarded *improvidē*, and therefore the Court might restore the party to his Goods taken in Execution, although the Sheriff was not in fault.

But

But the Opinion of the Court was, That the Party ought to take notice of a *Recipiasur* upon the Record, if it be entred; and if the party take out Execution after the Writ of Error is allowed, he is in contempt of the Court; otherwise not: And the Attorney is not bound to survey the Record, to see whether a Writ of Error be brought, but may take out Execution, if there be no *Supersedeas*, or notice given to the party.

Therefore there is no help in this Case; for here the Proceedings have been according to the course of the Practice used in this Court; for by the delivery of the Writ of Error to the Officer of the Court, the Hands of the Court are closed, *Trin. 24 Car. 1. in B. R. Ayres and Stebbins Case, Stiles Rep. 105.*

The Court was moved to have restitution of Monies out of the Hands of a Sheriff, which he had levied upon an Execution, because the said Writ of Execution was alleged to have issued out *Erronice*.

For before the Plaintiff took out Execution, the Defendant brought a VVrit of Error in the Court of *Exchequer Chamber*, and the Record was removed thither.

And also the late Statute saith, That a VVrit of Error shall be no *Supersedeas* to stay Execution, yet the Record being removed into the *Exchequer Chamber*, it is not now before this Court, nor was at the time of the Execution sued forth; and this being after a Verdict, and Judgment thereupon, the VVrit of Error is no *Supersedeas*; and so it is mischievous both ways.

There-

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Therefore the Court awarded a *Superfedeas quia erronee emanavit* to supersede the Execution; and also awarded the taking of the Mony out of the Sheriffs Hands, *Hill. 1650.* in *B. S. Wingfield and Valences Case*, *Stiles Rep. 414, 415.*

Error was brought in the Court of *Kings Bench* to reverse a Judgment in Debt in an Inferiour Court of Record; and the Error assigned was, That the Plaint was entred generally in *placito debiti* which was incertain, so as the Defendant cannot know what is demanded.

It was holden by the Court to be Error, and the Judgment was reversed accordingly, *Hill. 23 Car. 1.* in *B. R. Hales and Mores Case*, *Stiles Rep. 86.*

A *Writ* of Error was brought by an Administrator to reverse a Judgment in Debt, and the Error assigned was, because the Plaintiff did not declare, that the Administration was granted unto the Defendant *per loci illius Ordinarium*: It was the Opinion of the Court, that it is not necessary in a Declaration, to say, That the Letters of Administration were granted *per loci illius Ordinarium, aut cui pertinuit*, although they ought to be so mentioned in a Plea in Bar, *Trin. 24 Car. 1.* in *B. R. Clemarshon and Mountfords Case*, *Stiles Rep. 106.*

A *Writ* of Error was brought in this Court upon a Judgment obtained in an Inferiour Court of Record; and the Error assigned was, because the Stile of the Court was entred thus, *Per Consuetudinem & Literas Patentes tem'*, &c.

It

It was the Opinion of the Court, That it was Error, and that if a Court be holden by Custom, and afterwards a Patent be purchased to hold the same, the Custom is gone, *Mich. 24 Car. in B. R. Tompkins and Jourdans Case, Stiles Rep. 131.*

A Writ of Error was brought in this Court to reverse a Judgment in Debt brought against an Executor in *Bristol*, upon a Custom to pay a Debt *sur concessit solvere*, due by the Testator upon simple Contract.

The Court inclined to be of Opinion, That it was Error, and the Custom not good, because it hindred the Party from waging his Law. And although such Custom had been allowed against the Testator, who was the party that made the Contract, yet it was not good against an Executor, *Mich. 24 Car. in B. R. Trig and Roberts Case, Stiles Rep. fol. 155.*

Error was likewise brought upon a Judgment in an Inferior Court of Record by Writ returnable in this Court; and the Error assigned was for that the Jury in assessing damages, said, *Pro misis & custagiis*, omitting the Words *Circa sectam expendit*. *Et sic non constat* for what the Costs and Damages were assessed, whereupon the Judgment was reversed, *Mich. 1649. in B. S. Cribble and Orchards Case, Stiles Rep. 164.*

So a Writ of Error was brought in this Court to reverse a Judgment obtained in an Inferiour Court, and the Plaintiff in the Error assigned for Error, that whereas the Issue joyned was *De injuria sua propria, absq; tali Causa*. The Jury notwithstanding found

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Non culpabil' generally. It was holden by the Court to be Error, for that the Verdict found the Issue but argumentatively, and not directly, and therefore ill, and the Judgment thereupon reversed, *Pasch. 20 Caroli* in *B. R. Hobbs and Blancards Case, Stiles Rep. fol. 167.*

In like manner a Writ of Error was brought in this Court to reverse a Judgment obtained in the Court of the City of York, and the Errors assigned were:

First, Because the time of the Judgment and the Sum recovered were entred in Figures; and

Secondly, For that *Non constat*, that the Cause of Action did accrue *Infra Jurisdictionem ejusdem Curiae.*

And for these Causes and others, the Judgment was reversed, *Pasch. 1649. in B.S. Jenkinson and Porters Case, Stiles Rep. 187.*

So a Writ of Error was brought returnable in this Court to reverse a Judgment in an Action upon the Case commenced in Abington Court, and the Error assigned was,

For that the said Court is said in the stile thereof to be holden before the Mayor *Secundum consuetudinem Burgi, a tempore cujus contrarii memoria hominum non existit*; and *Non constat*, that there was any such Custom there.

But the Court was of Opinion, That this Assignment of the Error, being directly against the Record, is not receivable, and therefore the Judgment was affirmed, *Mich. 12 Jac. in B. R. Whistler and Lees Case, 2 Cro. 359. and 2 Bulstr. 243. acc.*

A Writ

A Writ of Error was likewise brought in this Court upon a Judgment obtained in Debt in the Court of Common Pleas, and the Error assigned was, for that the Judgment was entred thus *Ideo consideratum est quod prædictus* (the Plaintiff) *recuperet quadraginta solid' pro misis & custagiis suis, per ipsum circa sectam suam in hac parte apposit'*, omitting these Words *Ex assensu suo per Cur' hic adjudicat'*.

It was holden by this Court, that those Words omitted, were a material part of the Judgment; for a Writ of Inquiry of Damages shall issue out, unless the Party Plaintiff doth consent to take so much for his Damages; and the Judgment was reversed thereupon, *Hill. 14 Jac. in B. R. Machins Case, 2 Cro. 415.*

A Writ of Error was brought in this Court upon a Judgment obtained in the Court of Common Pleas, upon a Writ of *Cessavit*; by default.

It was moved by Council in this Court, That that matter might be assigned for Error.

Dodderidge Justice, In regard he had no time to plead it in the first Action, the first Judgment being obtained by Fraud, he conceived the Party might plead, that he was Tenant.

Haughton and *Montague contra*, Because if he was not Tenant, he had no loss, and being returned summoned, and not Pleading, it was his Folly not to appear and plead thereto; and this Court cannot take Cognizance of a Reversal by a Writ of *Disceit*.

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This Case was not adjudged, but adjourned, *Mich. 17 Jac. in B. R. Salkeild and Lord Howards Case, Cro. 2 part. 547.*

The Tenant in a Writ of Right brought a Writ of Error returnable in this Court to reverse a Judgment obtained against him in the Court of *Common Pleas* upon the said Writ; and the Error assigned was,

That the Party did appear by his *Prochein Amy*, and afterwards he came of full Age, and prosecuted his Suit, and recovered by *Prochein Amy*, whereas he ought to have appeared by Attorney, or in proper person.

The Court was of Opinion, That they ought not to take Notice, when the Plaintiff comes to his full Age, and that the Defendant had now surceased his Time, and that this Matter might have been pleaded before Judgment, but could not now be assigned for Error; whereupon the Judgment was affirmed, *Trin. 8 Jac. in B. R. Stone and Marches Case, Bulstr. 1 part. 24.*

A Writ of Error was also brought in this Court upon a Judgment obtained in the Court of *Common Pleas*, and the Error assigned was,

For that the Action was brought in the Time of Queen *Elizabeth*, and the Parties were then at Issue, and a *Venire Facias* was then returned.

Afterwards in the Time of King *James* an *Habeas Corpora Jur'* was awarded with a *Tales*, wherein this Clause was inserted after the direction to the Sheriff, *Præcipimus tibi quod habeas coram Justic' nostris apud Westm' (tali Retorn') Corpora A. B. C. D.*

&c.

&c. Jur' sum' in Cur' nostra, &c. And because the Jury were not mentioned to be summoned in *Curia Regina*, it was holden by the Court to be Error, and the Judgment was reversed.

And this Misprision is not helped by either of the Statutes of Jeofails of 32 H. 8. or of 18 Eliz. (nor since by those of 21 Jac. or 16 and 17 Car. 2.) because the one Process, viz. the *Venire Facias* ought to warrant the other, namely, the *Habeas Corpora Juratorum*, which was not done in this Case, *Mich. 3 Jac. in B. R. Sir Francis Knowls and Bechinshaws Case, Cro. 2 part, 83.*

A Writ of Error was brought in this Court to reverse a Judgment in the *Common Pleas quoad Executionem Executionis*; and the Case was,

That a *Scire Facias* being directed to the Sheriff of S. upon a Recovery in Debt of 400 l. against B. the Sheriff returned one R. Ter-Tenant *omnium Terrarum & Tenementorum in Balliva sua, quæ fuerunt prædicti B.* Upon which it was awarded, that the Plaintiff should have Judgment and Execution against R. and the Plaintiff thereupon prayed an *Elegit*, which was thus entred upon the Roll, *Elegit sibi liberari Medietatem omnium Terrarum & Tenementorum in Com. S. Tenend', &c. quousque, &c.* omitting to insert this Clause, *Quæ fuerunt prædicti B.* For which Omission, the Judgment (as to the awarding Execution upon the *Elegit*) was reversed; yet the *Elegit* it self was good, and the Return of it well made by the Sheriff, and the Fault only was in the Entry thereof upon

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the Roll. Observe therefore, That where the Roll is mis-entred, the Writ, though true, will not help it, *Mich. 5 Jac. in B. R. Keer and Owens Case, Hob. 90.*

Note, Where Error is brought of a Judgment upon a Writ of Partition, the Writ of Error will not lie after the first, and before the second Judgment; For in every Partition there must be two Judgments, the first, *Quod Partitio fiet*, and the other, *Quod Partitio facta sit firma*. And if a Writ of Error be brought before the second Judgment it will not lie, as it was adjudged in the *Lady Warwicks Case, Trin. 11 Jac. in B. R.* See the principal Case between *Rawlins and Barrer*, in *Bulstrodes Rep. part 2. fol. 104.* See also *Co. 11. part, fol. 40. Mercalls Case* accordingly.

A. recovered in Debt against B. in the Court of Common Pleas, and a *Capias ad satisfaciendum* issued out against the Defendant, but because he could not be taken, a *Scire Facias* was awarded to the Sheriff against the Bail, upon which he returned a *Nichil*.

Afterwards the Defendant brought a Writ of Error, returnable in this Court, to reverse the Judgment by which the Record was brought hither.

After which, a second *Scire Facias* issued out of the Court of Common Pleas against the Bail, who, before the Return thereof, brought in the Body of the Principal.

It was the Opinion of the Court, that it should not be allowed, being so adjudged (*tempore Eliz. Reginae* in this Court) in *Sir George Bowes Case, Pasch. 14 Jac. in B. R.*
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The *Spanish Ambassador and Giffords Case*,
Bulstr. Rep. 3 part, 82.

A Writ of Error was brought in this Court to reverse a Judgment obtained in the Court of *Common Pleas*; And the Error assigned was,

That the Judgment there was obtained against a dead Man, it being given in Bank against the Defendant, who dyed after the day of *Nisi Prius*.

To which it was answered by the Council in affirmance of the Judgment, that the day of *Nisi Prius* and the day in Bank are all one.

But the Court was clear of Opinion, that the Judgment was erroneous, and that the Defendant being dead, there was no such person against whom Judgment could be given, *Trin. 12 Jac. in B. R. Fournen and Dennis's Case, Bulstrodes Rep. 2 part, fol. 241. and Pasch. 36 Eliz. in B. R. Lewis and Samiters Case, and Mich. 28 Eliz. in B. R. Ifeley and Pelhams Case* adjudged accordingly.

A Writ of Error was brought in the Court of the *Exchequer Chamber* upon a Judgment obtained in this Court in an Action of Trover.

Upon which two Errors were assigned,

One, that there was no Bill filed, which ought to have been done, according to the Course of Practice used in this Court.

And the other was, for that there was no Bail; and both these were certified accordingly.

Notwithstanding which, the Judgment was affirmed in the *Exchequer Chamber*, for
E 4 that

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that the want of a Bill was remedied by the Equity of the Statute of 18 Eliz. of Jeofails. And the want of Bail was not material, the Defendant being at the time of the Bill in *Custodia Marecalli*, Trin. 17 Car. in *Camera Scaccarii*, *Willis* and *Woodhouses* Case, Hob. 264, 265.

A. recovered in Debt against B. afterwards B. was brought by his Bail by *Habeas Corpus* into Court with an Intent to surrender him, that they might thereby be discharged. The Plaintiff prayed at the same time that the Defendant might be committed in Execution, and the Bail likewise prayed that he might be received in their Discharge.

But it appeared to the Court, that B. had brought a Writ of Error, which was allowed, but the Return of it was not yet come, so that the Court was disabled either to award Execution, or to commit the Defendant in Execution, and for that reason the Bail could not be discharged: For Bail is not only to render the Body, but to become subject to the Court, which cannot be now because of the Writ of Error: Wherefore it seems that the Defendant by his own Act hath so disabled himself, that his Bail is forfeited, although he proceed not in the Writ of Error, Pasch. 14 Jac. in *Camera Scaccarii*, *Wicksted* and *Bradshaws* Case, Hob. 116.

A Writ of Error was brought in this Court to reverse an Amercement assiered in a Court Leet, because it was unreasonable. But it was the Opinion of the whole Court, that after an Amercement is once assiered a

moderata

moderata Misericordia will not lie, whereupon the Amercement was affirmed, *Trin. 7 Jac. in B. R. Stubbs and Flowers Case, Bulstrodes Rep. 1 part, fol. 125.*

A Writ of Error was likewise brought in this Court to reverse a Judgment obtained in the Court of *Common Pleas*. And the Error assigned was, That the Defendant being an Infant, Judgment was entred against him, *Quod Capiatur.*

It was the Opinion of the whole Court, That there is no Case in Law to Warrant such a Judgment, and therefore the Judgment was reversed, *Trin. 9 Jac. in B. R. Daby and Holbrooks Case, Bulstr. 1 part 162.*

Also a Writ of Error was brought in this Court to reverse a Judgment obtained against three persons in the Court of *Common Pleas*.

And the Error assigned was, That one of the Defendants was dead, *Tempore Redditionis Judicii.*

To which the Plaintiff in the Action replied, That the said Defendant (supposed to dead, by the Plaintiffs in the Writ of Error) was in full Life *Tempore Judicii prædicti redditi, scilicet decimo octavo die Augusti, &c.*

But the Court was clearly of Opinion, That the *scilicet* was void; and it was ruled, That the other Issue should stand, *viz.* Whether the Party was living at the time of the Judgment given, *Mich. 10 Jac. in B. R. Baskervil and Henshaws Case, Bulstr. 2 part, 26.*

So a Writ of Error was brought in this Court upon a Judgment obtained in the *Common Pleas* in an Action upon the Case.

And

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And the Error assigned was, That the Judgment was entred against the Defendant, *Quod Capiatur*, whereas it ought to have been *Quod Defendens sit in misericordia*.

Secondly, It was alledged, that the Bail was taken in Execution, without any Writ of *Scire Facias* sued out; for which Causes the Judgment was reversed, and a *Superse-das* was granted to deliver the Party out of Execution, *Trin. 11 Jac. in B.R. Kirkby and Ongles Case, Bulst. 2 part, 133.*

But note, That the want of entring the Words *Misericordia*, or *Capiatur* in a Judgment, or the putting one of them for the other therein, is now remedied by the Statute of 16 and 17 Car. 2. cap. 8. Of *Jeofails*, in express Words.

Having cited some Cases out of the Reports to shew where Writs of Error will lie in this Court of Judgments obtained in the Court of *Common Pleas*, as also of Inferiour Courts of Record, in the next place we shall shew the Manner and Method of bringing Writs of Error in this Court upon Judgments given in the Court of *Kings Bench* in *Ireland*.

To do which, you must get a Cursitor to make your Writ of Error, directed to the Chief Justice of the Court of *Kings Bench* in *Ireland*; In which Writ is a Command to summon the Plaintiff, in the Action, to appear here in this Court to answer the Errors in the Record, which if he doth not, and the Chief Justice in *Ireland* returns the Summons, the Plaintiff in Error may proceed,

ceed, and Reverse the Judgment, if there be cause.

But if the Plaintiff in Error doth not assign his Errors, he may be forced to do it by Motion and Rule of Court.

But if the Judgment be affirmed, then must issue out a Writ directed to the Chief Justice in Ireland to certify the affirmance thereof, and that the Plaintiff in the Action hath his Liberty to take out Execution upon the same.

Certain Rules of this Court concerning Writs of Error, as also Observations concerning the same, taken from the Course of Practice agreed upon by the ancient Clerks of the Court, 2 Apr. 1669.

That if a Writ of Error be brought upon a Judgment obtained in this Court returnable in the Court of Exchequer Chamber, and the Judgment be there affirmed, no Execution shall be taken out against the Bail in the original Action, for the Costs taxed *occasione dilationis Executionis*, Observation 12.

If a Writ of *Scire Facias* issues out against the Bail upon a Recognizance in a Writ of Error generally without expressing either the Action or the Condition of the Recognizance, there the *Scire Facias* must be returnable on a general Return *ubicunque fuerimus in Anglia*.

But if the Action and the Condition of the Recognizance be set forth in the *Scire facias*, and it appears to be commenced by Bill,

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Bill, and not Original Writ, then the *Scire facias* must be returnable at a day certain in Court, *Observation* 13.

That every Attorney of this Court, who shall prosecute any Writ of Error, upon any Judgment obtained in this Court, returnable in the Court of *Exchequer Chamber*, shall allow such Writ of Error with the Clerk of the Errors of this Court, within four days next after notice given to the Attorney for the Plaintiff, of such Writ of Error so by him prosecuted.

And also shall put in Bail upon such Writ of Error, within four days next after the allowance of such Writ of Error (in such Cases where Bail ought to be put in) or in default thereof, Execution to be made out upon such Judgment, notwithstanding such Writ of Error so prosecuted, as aforesaid, *Pasch. 16 Car. 2. in B. R. Per Cur.*

And this shall suffice touching Writs of Error, to be brought in this Court.

In the next place we shall lay down the Method of Proceeding in this Court by Original Writ, either to the Arrest, or to the Outlawry.

And first, how to proceed upon the Original in this Court, as to the Arrest.

Proceedings in this Court by Original Writ, are the same in effect, as they are in the Court of *Common Pleas*, except with this difference, That this Court meddles not, by way of Original, with Actions of Debt, or Detinue, Covenant or Account, though it doth with all other Personal Actions; where-

as the Court of *Common Pleas*, in their way of Proceeding by Original Writ, do take in all manner of Actions, as well real, as Personal and mixt.

But to proceed, The manner of obtaining your Original is thus, If the Action be laid in *London*, and the cause of Action be in Trespass, you must draw a *Precipe* in this Form.

Si A. B. fecit &c. tunc ponit &c. C. D. nuper de &c. (naming the place of the Defendants Abode, with the addition of his Degree, Trade, or Occupation, according to the Statute of 1 H. 5. cap. 5.) in Comd tuo Mercatorum Scissorum, de placito quare vi & armis Clausum & Domum ipsius A. apud Parochiam Beate Marie de Arcubus in Warda de Cheap fregit, Et alia Enormia ei intulit, ad grave dampnum ipsius A. Et contra Pacem nostram &c.

Diſt ref in Banco Regis (quinden Pasch.) ubicunque &c.

C. F. Attoꝝ Quer.

But if the Action be laid in *Middlesex*, then you must draw your *Precipe* thus.

Si A. B. fecit &c. tunc ponit &c. C. D. nuper de Kingston in Comd tuo Armigerum de placito, quare vi & armis Clausum ipsius A. apud C. fregit, & alia enormia ei intulit, ad grave dampnum ipsius A. Et contra pacem nostram &c.

Diſt ref in Banco Regis (quinden Pasch.) ubicunque &c.

F. G. Attoꝝ Quer.

In

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In like manner if your Cause of Action be Assault and Battery, then your *Precipe* must be after this manner.

Midd. ff. Si A. B. fec' &c. tunc pon' C. D. nuper de Illington in Comd tuo Peo-
man, de placito quare vi & armis in ipsum
A. apud B. insultum fecit: & ipsum verbera-
vit, vulneravit, & malettractavit, Ita quod de
vita ejus desperabatur, Et alia enormia ei in-
tulit, ad grave dampnum ipsius A. & contra
pacem nostram.

Orig' ret' in Banco Regis (quinden) Pasc.
ubicunq; &c.

B. H. Attornd Quer.

But the *Precipe* to an Original in *Ejecti-
one Firme*, must be in this manner.

Midd. ff. Si A. B. fec' &c. tunc pon' C. D.
nuper de J. in Comd tuo gen' de placito qua-
re vi & armis quatuor Messuagia cum pertinentiis
in J. que B. J. prefat' A. dimisit ad Termi-
num qui nondum preterit, intravit, & ipsum
a firma sua p'dicta Ejecit, & alia enormia ei
intulit, ad grave dampnum ipsius A. Et contra
pacem nram &c.

Orig' ret' in Banco Regis (quinden) Pas-
che) ubicunq; &c.

A. R. Attornd Quer.

But the most usual Original is for Actions
of Trespas upon the Case, which ought to
contain the whole Declaration after this man-
ner.

Midd. ff. Si A. B. fec' &c. tunc pon' C. D.
nup de B. in Comd tuo Inholder, de
placito, quare cum idem A. (talibus die, An-

no, & loco) ad speciales instantiam & requisitionem predicti C. bargainasset & vendidisset prefat C. viginti virgas (Anglice Yards) Panni lanei lati (Anglice Broad Cloth) ad ratam & precium decem & quinque solidis pro qualibet virga inde Accetiam alias viginti virgas al Panni lanei lati ad ratam & precium decem solidorum pro qualibet virga inde predict C. postea scilicet (eisdem die anno & loco supradict) in Comitatu predict In consideratione inde super se assumpsit & eidem A. adiunc & ibidem fideliter promissit quod ipse prefat C. predict denariorum summas proinde in toto se attingend ad viginti & quinque libras legalis monete Anglie eidem A. super diem Martagii, aut horam mortis ipsius C. (qui prius acciderit) bene & fideliter solvere & contentare vellet Cumque etiam predict C. postea scilicet die anno & loco supradictis in Comitatu predict indebitat fuisset prefat A. in aliis viginti & quinque libris legalis monete Anglie pro aliis quadraginta virgas panni lanei lati pro ipsius A. prefat C. ante tempus illud vendit & deliverat predict C. in consideratione inde adiunc & ibidem super se Assumpsit & eidem A. fideliter promissit quod ipse prefat C. predictas viginti & quinque libras ultra mentionat eidem A. similiter ad vel super diem Martagii sive horam mortis predict C. (qui prius acciderit) bene & fideliter solvere & contentare vellet Et idem A. in facto dicit quod predict C. postea scilicet tali die anno & loco supradictis in Comitatu predict eundem S. H. maritat fuit predict tamen C. promissiones & assumptiones suas predictas minime curans sed machinans & fraudulenter intendens eundem A. in hac parte callide & subdole decipere & defraudare Predictas separales denarioz summas in

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in toto se attingen' ad quinquaginta libras legalis monete Anglie eidem A. nondum solvitur vel aliquantulum proinde contentabit sed ad hoc faciendū p̄dict C. (licet p̄ eundem A. sepius requisit) penitus reculavit & adhuc reculat ad dampnū ipsius A. centum librarū, ut dicit.

Orīg ret in Banco Regis (quindena Pasche) ubicunq; &c.

W. J. Atton Duer

Note, That all Originals in Actions of Trespass upon the Case (where the Damages are laid above 40 l.) do pay a Fine to the King which the Curfitor receives, and is as followeth.

From 40 l. to 100 Marks	l.	s.	d.
you pay	00	06	08
And from 100 Marks to 100 l.	00	10	00
So from 100 l. to 200 Marks.	00	13	04
And from 133 l. 6 s. 8 d. to 166 l. 13 s. 4 d.			
you must pay	00	16	08
Likewise from 166 l. 13 s. 4 d. to 200 l.	01	00	00
And for every 100 Marks more, you pay	00	06	08
So for every 100 l. more	00	10	00

The Original is the foundation of the *Capias* and all other Process sued out afterwards, the *Return* whereof is usually the *Tesse* of the *Capias*, except it be upon the *Essoin* day of any

any Term, and then the *Capias* must be *Teste* the first day of that Term.

But commonly the *Capias* is first taken out before the Original (as the course is in the *Common Pleas*) by leaving the *Præcipe* with the Filizer, who makes you out a *Capias* thereupon, and after that carries your *Præcipe* (with many others) to the Cursitor, in convenient time, who likewise makes him Originals thereupon, and after they are sealed, delivers them to the Filizer, who, after they are return'd, files them with the *Custos Bre-vium*.

Besides, there is a reasonable Excuse, in some sort, for so doing, because in the Vacation time Publick Seals are not so frequent as occasion may require; and although the Court of *Chancery* is said to be always open, so that a private Seal may be had at any time, to accommodate the Subject in this respect, or any other emergency, where the Broad Seal is to be made use of; yet on the other hand, it must be considered, That every Cause is not weighty enough to bear the extraordinary charge of a Private Seal; and therefore the Usage above-mentioned has always been allowed to be practicable.

But you are to observe, That if you would gain a Term in your proceedings, you must carry your *Præcipe* to the Cursitor of that County where you intend to try the Cause, within the first week of the Term, and then he will make an Original for you thereupon, returnable the first return of the next preceding Term; but you must take special care, That your Cause of Action did arise so

F

long

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long before, as that the Original may not bear date before your Client had any cause of Action.

When you have your Original under Seal from the Cursitor, you may get the Sheriff of the County where you lay your Action (if he be near you) to return a *Nil* upon it; but if he be remote from you, you may do it your self in this manner.

Pleñ de proñ Iohes Doo, Ricus Roo.

Infra nominat J. B. nichil habet in Balliva mea p quod attach potest.

A. L. Ar Uic.

Note, That the Return of the *Capias* must be fifteen days, at least, after the Return of the Original, and so it must be in every other Writ, as well to the Outlawry as to the Arrest, except in the Return of *Crastinum Animarum* in every *Michaelmas* Term, according to the Statute of 17 Car. 1. cap. 6.

And if the Defendant cannot be taken where the Action is laid, but either lives, or hath his residence in some other County, then upon a *non est inventus* returned, upon the *Capias* directed to the Sheriff of the County where your Action was first laid, the Filizer thereof will make you a *Testatum Capias* into any other County; and if the Defendant doth appear thereupon, then the Plaintiffs Attorney must draw his Declaration, for which he takes of his Client 8 *d. per* Sheet, and deliver a Copy thereof to the Defendants Attorney, for which he receives 4 *d. per* Sheet; and the same Term he declares (after Rules given with the Secondary to answer

swer, as before mentioned) he must call upon the Defendants Attorney for a Plea, and then draws up his Replication thereto (if the Defendant pleads specially) or otherwise the general Issue, and it being by Original makes up the Paper-Book himself, and whether Issue or Demurrer, delivers a Copy of it to the Defendants Attorney, and takes for it 4 *d.* per Sheet.

But if it be an Issue, gives Notice of Tryal, as before hath been said of Actions commenced by Bill; and then signs his *Venire*, *Distingas Fur* and *Subpoena* with the same Filizer, and seals his Record of *Nisi Prius* with the *Custos Brevium*, unless the Action be laid in *Middlesex*, for then he must seal the same with the Chief Justice of this Court, and so draw his Breviates, fee his Council, summon his Witnesses, and proceed to Tryal.

When the Tryal is over, the Plaintiffs Attorney, (in case the Verdict passeth for his Client) must some time before the day in Bank (which is always the Essoin-day of the subsequent Term, if the Cause be tryed at any County Assizes) bring his Issue to be entered upon the said Filizers Rolls.

But if the Tryal be either in *London*, or *Middlesex*, then he need not enter his Issue till some time before the next Essoin-day after the sitting at which the Cause was tryed.

And note, That by the Statute of 13 Car. 2. *Seff. 2. cap. 2.* in the aforesaid Writs of *Venire Facias*, and *Distingas Fur* or any other Writs sued out after Issue joyned to be tried by a Jury and after Judgment ob-

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tained in Actions of Debt, or other personal Actions, as also in Actions of *Ejectione firme* depending by original Writ in either of his Majesties Courts at *Westminster*; there shall not need to be fifteen days between the *Teste* and Return of any such Writs; or of any Writs of *Habeas Corpora Jur'*, *Fieri Facias*, or *Capias ad satisfaciendum*, and the want thereof shall be no Error.

But out of this Act are excepted, all Writs of *Capias ad satisfaciendum*, where any Exigent after Judgment is to be awarded, as also all Writs of *Capias ad satisfaciendum* in order to make any Bail liable.

After the Plaintiffs Attorney hath obtained a Verdict for his Client, and entred his Issue with the Filizer, as aforesaid; he must give Rules, and sign his Judgment with the Secondary, and then enter up his said Judgment to the Filizers Issue Roll before mentioned, make out his Writs of Execution, and take the like Fees of his Client for the same, as is usual in Cases where the Action is commenced by Bill.

We shall next proceed to lay down some Rules touching Issues, Judgments, Trials at Barr, new Trials, and special Verdicts in this Court.

By the special Rules and Orders of this Court made in *Michaelmas* Term, 1654. touching Trials at Barr, New Trials, and Specials Verdicts, *Henry Rolls*, *Richard Ask* and *Richard Newdigate* being then Judges of the Court, It was ordered (*inter alia*) For prevention and remedy of excessive Charges of

of Trials at the Barr, especially if the Jury lyeth out, that if a Jury lyeth out one Night after a Privy Verdict delivered, there shall be allowed for the whole Diet of each Jury-man that Night no more than 3 *s.* 4 *d.* a-piece, and for two Tipstaffs, and one Crier or Usher to each of them no more than 2 *s.* ordinary, besides the Charges of the Jurors Lodging.

Also in finding of special Verdicts (where the Points are single, and not complicated and no special Conclusion) the Council (if required) shall subscribe the Points in question, and agree to amend the Omissions or Mistakes in the mean Conveyances, according to the Truth, to bring the Points in question to Judgment.

Likewise that the unnecessary finding of Deeds *in hac verba*, upon special Verdicts, where the Question rests not upon them, but are only derivation of Title, shall be spared, and found briefly, according to the substance they bear, in reference to the Deed, be it Feoffment, Lease, Grant, &c.

Lastly, Where a Verdict finds intire Damages where Damages are the principal, and part not actionable, although Judgment be arrested, yet by Rule of Court, a *Venire Facias de novo* may issue, as upon an ill Verdict; and upon the *New Trial* the Party may sever his Damages.

In like manner it was ordered by this Court touching Trials at Barr, That no Writ of *Alias* or *Pluries Distringas Fur* with *Tales*, for the trying an Issue at the Bar, shall issue out before the precedent Writ of *Di-*

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stringas Jur', with the Panel of the Juries Names thereunto annexed, shall be delivered to the Secondary of this Court, to the intent that the Issues forfeited by the Jury, for their not appearing upon the said precedent Writ may be duly estreated, *Hill. 14 & 15 Car. 2.*

By the Course of Proceedings drawn up by the ancient Clerks of this Court 2 *Apr. 1669.* before mentioned, It is agreed to be the Practice of the Court, touching giving Rules to enter Issues, that in Actions laid in *London* or *Middlesex*, the Attorney for the Defendant ought not to give a Rule for the Plaintiffs Attorney to enter his Issue, or that he will try the Cause by Proviso the same Term Issue is joyned, except the Plaintiffs Attorney hath made default upon giving Notice to the Defendants Attorney to try the Cause that Term.

But if the Action be laid in the Country, the Attorney for the Defendant ought to give a Rule for the Plaintiffs Attorney to enter up his Issue, the same Term Issue is joyned, *Observation I.*

So by the same Course of Proceedings, touching giving Notice of Tryal in *London* or *Middlesex*, it is declared by the said ancient Clerks to be the Practice of this Court, that if Notice be given by the Plaintiffs Attorney to the Attorney for the Defendant of a Tryal in *London* or *Middlesex*, and the Cause be not tried that sitting whereof Notice was given, the Plaintiffs Attorney may try the said Cause the next sitting after, upon giving two days Notice to the Defendants Attorney.

But

But if the Cause be not tryed at the then next Sitting, then Notice ought to be given in the same manner as at the first, *Observation II.*

Likewise, by the same Course of Proceedings, *Observation 17.* Touching Rules given to enter Issues, It is also agreed by the said ancient Clerks in point of Practice, That if the Defendants Attorney give a Rule to the Attorney for the Plaintiff to enter his Issue in any Action laid in *London or Middlesex*, the Plaintiffs Attorney shall bring in his Record into the Office, within four days after Notice given unto him by the Defendants Attorney of such Rule.

But if the Action be laid in the Country, then the Plaintiffs Attorney must bring in his Record into the Office before the Continuance day of the same Term; Otherwise a Nonfuit may be signed and entred thereupon.

Then touching sealing Records of *Nisi Prius*, It is ordered by the Court, That no Record of *Nisi Prius* for the trying of any Issue at the Assizes shall be sealed after the end of one Month, next following the Close of the Term, *Trin. 15 Car. 2.*

So as to the Trial of Issues, and entring Causes in the Lord Chief Justices Book; It is ordered by the Court, That Issues joyned of any precedent Term, shall be tried within the first VWeek of every Term.

And that the *Custos Brevium* of this Court shall not seal any Record of *Nisi Prius* of such Issues after a VWeek of every Term,

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without the special Licence of the Chief Justice of this Court.

And it is farther Ordered, That unless Causes to be Tried in *London* or *Middlesex*, shall be Entred with the Chief Justice of this Court, by the space of two days before the sitting, upon which such Cause are to be Tried; the Marshal may Enter a *Ne recipiatur*, at the request of the Defendant or his Attorney, *Hill. 16 Car. 2.*

Lastly, Concerning the Entering of old Issues, It is Ordered by the Court, That Issues joyned of any former Term, shall be Tried upon the first or second sitting of every Term peremptorily.

And that the *Custos Brevium* of this Court shall not Seal any Record of *Nisi Prius* to be Tried, against the intent of this Rule, *Hill. 20 and 21 Car. 2.*

Then touching Judgments, by the Rules and Orders of this Court, before mentioned, made in *Michaelmas* Term, 1654. It is declared to be the course and practice of the Court, That if Judgment be had and recovered for the Plaintiff, upon a Cause removed by *Habeas Corpus* out of an Inferiour Court, having Jurisdiction of the Cause, Costs below shall be considered and cast into the Judgment.

But if Judgment pass for the Defendant, he shall be allowed his charges of putting in Bail by this Court.

And, that in a Judgment had by *Non sum Informatus*, or *Nihil dicit*, in this Court in an *Ejectione firmæ*, the *Capiatur* shall be Entred upon the first Judgment.

So

So, by the course of Proceedings formerly mentioned, It is agreed by the afore-said ancient Clerks to be the practice of this Court, That if a Defendant gives Judgment with a *Cesset Executio*, until a time to come, the Plaintiffs Attorney may notwithstanding take out a *Capias*, or a *Scire facias* into the County, where the Action is laid, returnable before that time, to enable him at that day to take a *Testatum* against the Defendant.

But he may not in that Case sue out a *Capias* to warrant a *Scire facias* against the Bail, unless by special Agreement, because it is to the prejudice of a third person.

And the *Capias* in that Case must be delivered to the Sheriff four days before the Return be past; and there ought to be eight days between the *Teste*, and the Return thereof.

Also if a Defendant appear, and imparl until the first day of the Term following, and dye after the day in Bank (which, as afore hath been said, is always the Effoin day of the next Term) yet if Rules be given for Answer, and no Plea be pleaded, Judgment must be entred against him the next Term, by *Nihil dicit*, as of the first day of the Term.

Likewise, in all special Pleadings, where the Plaintiff takes Issue upon the Defendants Pleading, or traverseth the same, or demurreth, so as the Defendant is not thereby let in to alledge any new matter, there the Plaintiff may make up the Paper Book, with-

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without giving a Rule with the Secondary to Rejoyn, &c.

Judgment
Default,

And if the Defendant doth not, in four days after the Paper Book delivered, (the same being delivered in time,) bring it back and joyn in Issue or Demurrer, or give the general Issue, Judgment may be entred by default, *Observat.* 23.

Also, That an Attorney of either Bench accepting a Warrant to him directed to appear for the Defendant, or subscribing the same, and doth not cause an Appearance to be entred accordingly, shall the next Term be compelled to enter his Appearance of the precedent Term, and plead to Issue, or in default of Pleading, Judgment to be entred by default, *Observat.* 28.

By Rule of Court, made in *Easter-Term*, in the 15th year of the Reign of King *Charles* the II. touching Warrants taken from Persons under Arrests to confess Judgments, It is Ordered by this Court, That no Bayliff or Sheriffs Officer shall presume to exact or take from any person, being in his custody by Arrest, any Warrant to confess or acknowledge Judgment, but in the Presence of an Attorney for the Defendant; which Attorney shall then subscribe his Name thereunto, which said Warrant shall be produced when the said Judgment shall be acknowledged.

And if any Bayliff or Sheriffs Officer shall hereafter offend, or do contrarywise, he shall be severely punished for so doing.

And it is farther Ordered, That no Attorney shall from henceforth acknowledge or enter,

enter, or cause to be acknowledged or entered any Judgment, by colour of any Warrant obtained from any Defendant, being under Arrest, otherwise than is aforesaid.

Next, we shall shew you the manner of proceeding by Original Writ in this Court, in order to outlaw the Defendant.

Of proceeding to the Outlawry.

To do which, you must, as before, draw your Precipe, and carry it to the Curfitor, who will make you an Original thereupon, for which you pay one Shilling and no more, if it be in Trespass, or Assault; but if it be in Action upon the Case, or where the Precipe is long, then you pay more, according to the length; also, if the Sum demanded be finable, then you must pay for the same, according to the Rates before set down.

Note, in bespeaking your Original with the Curfitor, to proceed to the Outlawry, you must observe the same Instructions as before are laid down, in proceeding by Original to the Arrest, as to gaining of time; with this farther caution, That you begin not in *Hillary* Term to sue to the Outlawry, it not being so convenient for that purpose, as any of the other Terms are, because the Defendant will not there (though the Action be laid in *London*,) be Outlawed in less than four Terms, in respect of the shortness of *Easter* Vacation. But if you begin in any other Term, he will be Outlawed in three Terms, provided your Original be returnable the first return of the Term.

When

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When you have your Original from the Curfitor, you must carry it to the Filizer of the County or City where your Action is laid, who will make you a *Capias*, *Alias Capias*, and *Pluries Capias* thereupon (or for more expedition you may make them your self, in this manner.)

A *Capias* in Case.

Gulielmus & Maria &c. Vic. London salutem, Precipimus vobis quod Capiatis A. B. nuper de &c. (the same addition as in the Original) si inventus fuerit in Balliva vestra, Et eum salvo Custodiatis, Ita quod habeatis Corpus ejus coram Nobis a die Pasche in quinque Septimanas ubicumque tunc fuerimus in Anglia, ad respondendum C. D. de placito Transgressionis super Calum. Et habeatis ibi hoc breve, Teste Johanne Holt Milite 25 die Aprilis Anno Regni nostri sexto.

G. F. Attorn.

The *Alias Capias*.

Gulielmus & Maria &c. Vic. London salutem Precipimus vobis, sicut alias vobis Preciperimus quod Capiatis A. B. nuper de &c. si inventus fuerit in Balliva vestra, Et eum salvo Custodiatis, Ita quod habeatis Corpus ejus coram Nobis in Crastino Sancte Trinitatis ubicumque tunc fuerimus in Anglia, ad respondendum C. D. de placito Transgressionis super Calum, Et habeatis ibi hoc breve, Teste Johanne Holt Milite 14 die Maii Anno Regni nostri sexto.

G. F. Attorn.

A

A Plur' Capias.

Gulielmus & Maria &c. Vic London salutem. Precipimus vobis sicut Plur' vobis Preceperimus, quod Capiatis A. B. nuper de &c. in Com &c. generosum si invent' fuerit in Balliva tua Et eum salvo Custodiatis, Ita quod habeatis Corpus ejus coram Nobis a die Sancte Trinitatis in tres Septimanas ubicumq; tunc fuerimus in Anglia ad respondend' C. D. de placito Transgressionis super casum Et habeatis ibi hoc breve, Teste &c. 8 die Junii anno regni nostri sexto.

G. F. Attorn.

An Exigent thereupon.

Gulielmus & Maria &c. vic London salutem Precipimus vobis quod exigi faciatis A. B. nuper de &c. in Com &c. gen' de Hust in Hust quousque secundum Legem & consuetudinem hujus Regni nostri Anglie uclagerur, si non comperuerit, Et si comperuerit, tunc eum capiat, Et salvo Custod' faciatis, Ita qd habeatis Corpus ejus coram Nobis in Crastino Animarum ubicumq; tunc fuerimus in Anglia, ad respondend' C. D. de placito quare cum idem C. (talibus die anno & loco) ad speciales instantiam & requisitionem pdict' A. barganizasset & vendidisset pdicto A. viginti virgas (Anglice Yards) Panni lanei lati (Anglice Broad Cloth) ad ratam & preciu' decem & quinq; solidor' pro qualibet virga inde Acetiam alias Viginti virgas al' panni lanei lati ad ratam & preciu' decem solidorum pro qualibet virga inde Preditus A. (eisdem die anno & loco supradictis in Com' predicto) in consideratione inde super se assumpsit & eidem C. ad-

tunc

tunc & ibidem fideliter promissit quod ipse idem A. predictas separales denariorum summas perinde in toto se attingend ad viginti & quinque libras legalis monete Anglie eidem C. ad diem Partitagi vel horam mortis ipsius A. (qui prius acciderit) bene & fideliter solvere & contentare vellet Cumque etiam predict A. postea scilicet (die anno & loco supradict) indebitatus fuisset prefatus C. in aliis viginti & quinque libris legalis monete Anglie pro aliis quadraginta virgatis Panni lanei lati per ipsum C. prefatus A. ante tempus illud vendit & deliberat Idemque A. ad tunc & ibidem in consideratione inde super se assumpsit & eidem C. fideliter promissit quod ipse idem A. predict viginti & quinque libras ultimo mentionat eidem C. similiter ad diem Partitagi vel horam mortis ipsius A. (qui prius acciderit) bene & fideliter solvere & contentare vellet Et predictus C. in facto dicit quod predictus A. postea scilicet (talibus die anno & loco supradict in Comu predicto cuidam C. f. maritatus fuit. Predictus tamen A. separales Premissiones & Assumptiones suas predictas minime curans sed machinatus & intendens predictum C. in hac parte callide & subdole decipere & defraudare predict separales denariorum summas in toto se attingend ad quinquaginta libras predicto C. nondum solvit vel aliquammodo proinde contentabit sed ad hoc faciend predictus A. licet sepius requisitus penitus recusabit & adhuc recusat ad dampnum ipsius C. centum librarum ut dicit: Et unde vos ipsi Nobis Mandum a die Sancte Trinitatis in tres Septimanas ult preterit quod predictus A. non fuit inventus in Balliva vestra Et habeatis ibi hoc Breve,
 Teste

Teste ꝙc. 27 die Julii Anno regni nostri
sexto. G. F. Attorid.

A Broclamation to the County where the
Defendant lives.

Gulielmus & Maria ꝙc. Vic. Milites salu-
tem Cum Vicecomitibus nostris London per
habe nostrid nuper Precepimus quod Exigi
facerent A. B. nuper de ꝙc. in Comd tuo
generosum de Hust in Hust quousque secun-
dum Legem & Consuetudinem huius Regni
nostri Anglie Attagaretur, si non Comperu-
isset, Et si Comperuisset tunc eum Caperent
& salvo Custodiri facerent, Ita quod habe-
rent Corpus ejus coram Nobis in Crastino
Animarum ubicunque fuessimus in Anglia, ad
respondend C. D. de placito, quare cum idem
C. (talibus die anno & loco in Comd pdict)
ad speciales Instanciam & Requisitionem ip-
sius A. barganizasset & vendidisset eidem
A. viginti virgat (Anglice Yards,) Pan-
ni lanei lati (Anglice Broad Cloth) ad ra-
tam & precium decem & quinque solidis pro qua-
libet virgat inde acetiam alias viginti virgat
ad Panni lanei ad ratam & precium decem
solidis pro qualibet virgat inde predictus A. po-
stea scit (eisdem die anno & loco supradictis)
in Comd predict in consideratione inde super
se assumpsit & eidem C. adtunc & ibidem
fideliter promisit qd ipse idem A. predict
separales denariorum summas proinde in toto
se attingend ad viginti & quinque libras lega-
lis monete Anglie eidem C. ad diem Pari-
tagii vel horam mortis ipsius A. (qui prius
acciderit) bene & fideliter solvere & contem-
tare vellet Cumque etiam pdict A. po-
stea

Ita scit (die anno & loco ultimo mentionat) in Com̃ predict indebitat fuisse prefat C. in aliis viginti & quinque libris legalis monete Anglie pro aliis quadraginta virgat Pannilanei lati per ipsum C. pfat A. ante tempus illud vendit & deliberat idem A. adtunc & ibidem in consideratione inde super se assumpsit et eidem C. fideliter promisit quod ipse idem A. pdictas viginti & quinque libras ultimo mentionat eidem C. similiter ad diem Maritagii vel horam mortis ipsius A. (qui prius acciderit) bene & fideliter solvere & contentare vellet Et predictus C. in facto dicit qd pdict A. postea scit (talibus die anno & loco in Com̃ predict) cuidam C. H. Maritat fuit Predictus tamen A. separales Promissiones & Assumptiones suas predictas minime curans sed machinans & fraudulenter intendens pdict C. in hac parte decipere & defraudare pdict separales denariozum summas in toto se attingend ad quinquaginta libras pdicto C. nondum solvit vel aliqualliter proinde contentavit, sed ad hoc faciend pdict A. licet sepius requisit penitus recusavit & adhuc recusat ad dampnum ipsius C. Centum librarum, ut dicit. Ideo Tibi Precipimus qd per Statutum huius Anno Regni Domine Elizabeth nuper Regine Anglie tricesimo primo inde probis Proclamari facias pfat A. B. tribus separalibus diebus secundam formam Statuti illius. Unde una Proclamationum pdictarum fiat ad vel prope Maximum usuale Distium Ecclesie Parochialis ubi est inhabitans qd se reddat prefat Vicecomitibus nostris London Itaque quod habeant Corpus eius coram Nobis ad pfatd Terminum ad respondend prefat C. D. de

pres

predicto Placito & habeas ibi hoc Breve Teste
 ꝛc. 27. die Julii Anno Regni nostri sexto.

G. F. Attorn.

A Proclamation into *London*, from whence
 the *Capias*, &c. do issue.

Gulielmus & Maria ꝛc. Vicecomitibus Londoni salutem. Cum vobis per Breve nostrum nuper Precepimus, qđ exigi faceretis A. B. nuper de ꝛc. de Hust in Hust quousq; secundum Legem & Consuetud hujus Regni nostri Anglię utlagaretur si non comperuisset Et si comperuisset tunc eum Caparetis & salvo Custodiri faceretis. Ita qđ haberetis Corpus ejus coram Nobis in Crastino animarid ubicunq; tunc fuisset in Anglia ad respondend C. D. de placito Quare cum ꝛc. (and so recite the Original, as in the Proclamation next before to the Sheriff of *Wilts*, usque) ad dampnum ipsius C. D. Centum librarum, ut dicit. Ideo vobis Precepimus qđ per statutu ꝛc. as in the Proclamation next before, usque) qđ se reddat vobis, Ita qđ habeatis Corpus ejus coram nobis ꝛc. (as before, usque) Et habeatis ibi hoc Breve Teste ꝛc.

Here you may see that one Writ bears *Teste* from the Return of the other, as the *Capias* from the *Teste* day of the Return of the Original, the *Alias Capias* from the Return of the *Capias*, and the *Plures* from the Return of the *Alias*, and so the *Exigent* and *Proclamation* (which are both of one Return and *Teste*) from the Return of the *Plures*;

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And

Of the Practice of the

And these are the several Writs in order to the Outlawry.

When you have made out your Writs of Exigent and Proclamation, as above is directed, you must carry them to the respective Sheriffs, and call for their Returns, at the time they are returnable; for the Return of the Exigent you pay 4 *d.* per Name, but the Return of the Proclamation is 1 *s.* by the Statute of 31 *Eliz.* cap. 3.

Also the Exigenter, (which in this Court is the Filizer) hath 6 *d.* for the Proclamation, by the Statute of 6 *H.* 8. cap. 4.

Note, That if the Exigent be against several Defendants, living in several Counties, a Proclamation must issue out to the respective Sheriff of every several County.

Note also, That there must be of necessity five County-Court days between the *Teste* and the Return of the Exigent (which County-Courts are held but once in three Weeks) if your Action be laid in the Country; and five Hustings if your Action be laid in *London*. So, that if there be not County-Court days enough in the Country, or Hustings in *London*, as it may sometime happen, you must be necessitated to sue forth an other Writ called an *Allocatus*, which must bear *Teste* with the Return of your former Exigent, and be returnable the next Return after the fifth County day, or Hustings.

To obtain which, you must carry your Exigent to the Filizer, and he will make you out a Writ of *Allocatus*; otherwise for more expedition you may make the same your

your self according to this Precedent following.

A Writ of *Allocatus* directed to the Sheriff of *Middlesex*.

Guilielmus & Maria &c. Vic Midd salutem. Precipimus tibi quod Allocatis illis quatuor Comd ad quos A. B. nuper de &c. in Comd tuo generosus exactus fuit & non comperuit prout Tuiple Nobis in Crastino Animarum ult preterit mand ipsum A. B. ad prior Comd tuum ulterius Erigi facias quousq; secundum legem & consuetudinem hujus Regni nostri Anglie utlagetur si non Comperuerit Et si Comperuerit tunc cum Capias & salvo Custodiri facias Ita qd Habeas Corpus ejus coram Nobis ad pstat Terminu ubi tunc tunc fuerimus in Anglie ad respondend C. D. de placito Quare cum &c. (as in the Exigent usq) ad dampnum ipsius C. Cenu librarum, ut dicit. Et habeas ibi hoc breve, Teste (the Return of the Exigent, if the Exigent be returnable within the Term, if not, the quarto die post.)

This *Allocatus* is where the Exigent was in the Country, but if the Exigent be in London, then the *Allocatus* must be after this manner.

An *Allocatus* directed to the Sheriffs of London.

Guilielmus & Maria &c. Vicecomitibus London salutem. Precipimus vobis qd Alloca-

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tis illis quatuor Hust ad quos A. B. nuper de &c. exact fuit & non comperuit prout vos ipsi Nobis in Crastino Animar' ult' preterit mand' Ipsum A. B. ad prop' Hust Vestrum London' ulterius Exigi fac' quousq; secundum Legem & consuetud' hujus Regni nostri Anglie utlagetur, si non comperuerit &c. (as in the Exigent, usq;) ut dicit. Et habeatis &c. Teste &c. (as next above.)

Note, You must take care to examine all your several Processess to the Outlawry with your Original, that there be not any difference or variance found in the Sums, Names or Additions from the same, so that each of them may warrant the other.

Note also, That you ought to file a Warrant of Attorney for the Plaintiff, the same Term that you sue out your Exigent and Proclamation, to prevent Error in the prosecution of your Clients Cause, and saving your self incurring the Penalty of 10 l. Provided by a Statute made in that behalf.

When your Exigent and Proclamation are returned, you must then file your Proclamation with the *Custos Brevium* of this Court, and bring the Exigent to the Filizer of the proper County, where your Action is laid, or you may file the Exigent your self with the *Custos Brevium* of this Court, and get a Certificate from him of the filing thereof, which when you bring to the Filizer, he will make you out one or more Writ or Writs of *Capias Utlagatum*, into any County you shall desire him; where you can discover the Defendant, or any of his Estate to be, either in

Court of Kings Bench.

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in Lands or Tenements, Goods or Chattels, and (if your Case so require) into several Counties at once, the reason thereof being obvious, for that these Writs are as well on the behalf of the King, as at the Suit of the Party Plaintiff.

And Note, That the Writ of *Capias Utlagatum* is two-fold, namely, one general, to take the Body of the Defendant only, and the other special against his Body, Lands and Goods.

If you apprehend the Filizer may delay you too long in making your Writs of *Capias Utlagatum*, you may *Expeditionis causa*, make them your self, and carry them afterwards to him to be signed. The Forms whereof are as followeth.

A General *Capias Utlagatum*.

Gulielmus & Maria &c. Vicecomitibus London' salutem, Precipimus Vobis qđ non omittatis propter aliquam Libertatem Com' Civitatis Vestre quā Capiatis A. B. nuper de &c. Utlagat in London' die &c. (the quinto Cract) ult' p̄terit ad sextam C. D. de placito transgressionis super Casu si invent' fuerit in Balliva Vestra, Et eum salvo Custodiatis, Ita qđ habeatis Corpus ejus coram Nobis (here name the Return) ubicunq; tunc fuerimus in Anglia ad faciend' & recipiend' quod Curia nostra considerabit in hac parte. Et habeatis ibi hoc Breve Teste &c.

J. C. Attoꝝ

A Special Capias Utlagatum.

Guilielmus & Maria &c. Vic Willelmus salutem. Precipimus tibi qđ non omittas propter aliquam libertatem Comd tui quin p sacramentū p̄bor & legalitū hominum de eodem Comd tuo diligenter Inquiras que Bona & Catalla Terras & Tenementa A. B. nuper de &c. habet seu habuit die &c. (the quinto Cract) quo die p̄dict A. B. Utlagat fuit in London' ad lectam C. D. de placito Transgressionis super casum prout Vic nostri London' nobis apud Westm' ad certū diem jam p̄terit mand Et illa per eorum sacramentum extendi & app̄ciari facias iuxta verum valorem eorundem Et ea que per Inquisitionem illam inveneris, in manus nostras Capias & salvo Custodiri facias Ita qđ de vero valore & Exitibus eorundem Nobis Respondeas. Et illis sic Extentis & app̄ciatis quid inde feceris Scire facias Nobis (such a Return) ubicunque tunc fuerimus in Angliā distinde & aperte sub sigillo tuo & sigillis eorū per quorū Sacramentum Extentum & App̄ciationem illa feceris Ac pro eo qđ idem A. B. sic utlagatus latitat & discurrit in Comitatu tuo, in nostri Contemptum & Corone nostre Presudicium, ut accepimus, Tibi Precipimus qđ p̄dictum A. B. ubicunq; in Balliua tua, tam infra libertatem quam extra inveniri contigerit, capias Et eum salvo custodias, Ita qđ habeas corpus ejus coram nobis ad p̄fat Terminū ubicunq; tunc fuerimus in Angliā ad faciendū & recipiendū quod Curia nostra coram

coram Nobis Consideraverit in hac parte. Et habeas ibi hoc Breve Teste &c.

G. F. Attoꝝ.

Note, In making your Writs of *Capias Utlagatum*, though you say when a Man is Outlawed *Utlagat. in London.* (or any other County, such a day) yet if it be a Woman that you sue to the Outlawry, you must instead thereof say *Wariat. in London* (or elsewhere such a day) for that Women cannot properly be termed Outlawed, or *extra legem positæ*, because they are never sworn to the King and Queen at Court-Leets as Men are.

In the next place we shall shew you the Method of Appearing, either upon the *Exigent* by *Supersedeas*, or upon the Reversal of the Outlawry.

As to the first, If the Defendant appear by *Supersedeas*, he is not obliged thereupon to put in Bail, though the Action be an hundred pounds, or upwards, but the Defendant is only to enter his Appearance by his Attorney with the Filizer, and the Plaintiffs Attorney must declare against him, as by Original, in this manner.

London st. A. B. nuper de &c. (here insert the Defendants Addition, as it is in the Original *literatim*) ad respondens C. D. de placito Transgressionis super Calum &c. Et unde idem C. per G. F. Attoꝝ suum queritur, Quare cum idem C. (talibus die anno & loco) ad speciales instantiam & requisitionem p̄dict A. bargainasset & vendidisset eidem

A. viginti virgat (Anglice Yards) panni lanei lati (Anglice Broad Cloth) ad ratam & pretium decem & quinque solidorum pro qualibet virgat inde Acetiam alias viginti virgat al panni lanei lati ad ratam & pretium decem solidorum pro qualibet virgat inde p̄dict A. (eisdem die anno & loco supradictis) in consideratione inde super se assumpsit & eidem C. adtunc & ibidem fideliter p̄misit qđ ipse A. p̄dict separales denariozum summas p̄inde in toto se attingend ad viginti & quinque libras eidem C. ad diem Maritagii vel horam mortis ipsius A. (qui p̄ius acciderit) bene & fideliter solvere & contentare vellet Cumque etiam p̄dict A. postea scit (die anno & loco suprad) indebitat fuisse p̄fata C. in aliis viginti & quinque libris legalis monete Anglie p̄ aliis quadraginta virgat panni lanei lati per ipsum C. p̄fata A. ante tempus illud vendit & deliberat Idem A. adtunc & ibidem in consideratione inde super se assumpsit & eidem C. fideliter p̄misit qđ ipse idem A. p̄dict viginti & quinque libras ult̄ mencōuat eidem C. similiter ad diem Maritagii vel horam mortis ipsius A. (qui p̄ius acciderit) bene & fideliter solvere & contentare vellet Et p̄dictus C. in facto dicit qđ p̄dict A. postea scit (talibus die anno & loco) cuidam C. G. maritat fuit. P̄dictus tamen A. separales P̄missiones & Assumptiones suas p̄dict minime curans sed machinans & fraudulentè intendens p̄dict C. in hac parte callide & subdole decipere & defraudare p̄dict separales denariozum summas in toto se attingend ad quinquaginta libras p̄dicto C. nondum solvit vel aliqualit̄ p̄inde contentabit sed ad hoc faciend p̄dict A. licet sepius requisit̄ penitus recusavit

recusabit & adhuc recusat unde idem C. dicit
qđ ipse deterioratus est & dampnum habet &
valenciam centum librarum Et inde producit
sectam &c.

G. F. p Quer	} Plea de prof.	{ Jo. Doo & Ki. Roo.
H. D. pro Def.		

When the Plaintiffs Attorney hath declared, he makes a Copy of the Declaration (as they do in the Court of *Common Pleas*,) for the Defendants Attorney, who pays him 4 *d.* per sheet for the same, as also 4 *d.* per sheet for the Issue thereupon; and all Writs of *Nisi prius*, as, *Venire facias*, *Disfringas Juratores*, &c. as likewise all manner of Writs of Execution after Judgment had upon these Proceedings must be returnable *coram nobis in crastino Ascensionis Domini* (or some other Return) but not at a day certain, as is used upon proceedings by Bill.

When the Defendants Attorney hath gotten a Copy of the Declaration against his Client, he must not lose time, but as soon as he may advise with his Client what to plead, for the Plaintiffs Attorney will call upon him for Answer thereunto the same Term wherein he declares, after the Rules he hath given for the Defendant to answer are out; and then (as hath been said before upon proceeding to Tryal upon Arrest after an Original) the Plaintiffs Attorney draws up his Issue, as in other Cases, and if there be special Pleadings in the Case, makes up the Paper-Book himself, as the Usage and Practice of this Court hath been for Attornies

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nies to do, where the Proceedings are by Original, and whether it be Issue or Demurrer, takes 4*d.* per sheet for the same, upon delivery thereof to the Defendant's Attorney; and if an Issue, makes up the Record, and Seals the same, if in *Middlesex*, with the Lord Chief Justice; but if the Action be laid elsewhere, then it must be Sealed with the *Custos Brevium* of this Court; Then gives notice of trying the Cause (as in Cases by Bill) makes out his Writs of *Venire*, *Distringas* and *Subpoena*, and signs them with the Filizer, and sometime before the Effoin-day of the next Term after the Assises (if the Cause be tryed in the Country) brings the Issue to be entred upon the Filizers Rolls; but if the Tryal be at any sitting in *London* or *Middlesex*, then he need not bring his Issue to be entred with the Filizer, till some time before the next Effoin-day after the Trial.

And thus much as to appearing by *Superedeas*, and going to Trial thereupon.

Next in Order we shall Treat of the manner of Reversing Outlawries, and the Defendants Appearing upon the same.

To do which, The Defendants Attorney must search with the Filizer of the County where the Action is laid, for the Entry of the Writs of *Capias*, *Alias* and *Plur.* with the Exigent and Proclamation, and the Return of the Exigent to the *quinto exact.* upon which the Defendant stands Outlawed; of all which you must take a Copy, and then get the Filizer to Enter upon the same Roll,

where

where these Entries are made, by way of Averment, for such defects as you shall find in the proceedings, or other matter, as the Case requires.

There be several ways of Reversing an Outlawry, whether the Party be taken thereupon, or not.

As by Error in the Return of the Exigent, which frequently happens, sometimes in mistaking the County-Court days, or for not allowing sufficient time between some one or other of them; sometimes the misnaming either of the Parties, Plaintiff or Defendant; or omitting, or mistaking the Sheriffs name to the Return of the Exigent, or for using such words in the same as are improper or insignificant, or otherwise, as experience shall direct you.

Also, an Outlawry may be Reversed for Error in the Return of the Proclamation, or for want of Filing the same, according to the Statute 31 *El. cap. 3.* or for want of the Return, or for a mis-Return or mis-Entry thereof; or for some mistake in the Original, *Capias*, *Alias* or *Plures*; for all which diligent search must be made with the Filizer, and *Custos Brevium* of this Court.

When you have found any sufficient Error in the Original or other Process as aforesaid, you must get your Bail-piece ready, and put in Bail for the Defendant (if the Debt or Damages be 10 *l.* or upwards) "The
"Tenor of which Bail is for the Defendant
"to appear to a new Original within two
"Terms, at the Plaintiffs Suit, and pay the
"Debt, and Damages recovered, or render
"his

"his Body to Prison, if he shall be condemned in the Action. Then the File of Writs (among which that wherein you allege the Error to be, is filed) must be brought into Court, and you must get one of the Counsel at the Bar, by Motion to inform the Court of the defect, or misprision you intend to assign for Error, which if the Court approve of, the Outlawry will be reversed, which is alwaies done by the Seignior Judge of the Court, if present, and in his absence by the next in Seigniority.

Which Reversal, together with the Bail-piece, must be entred by the Filizer upon the same Roll, where he entred the other Process of Outlawry, for which you pay him *4 d. per sheet*.

Upon the Defendants putting in Bail to answer the Plaintiffs demand, the Outlawry being Reversed, as aforesaid, he is thereupon discharged, and the Plaintiff hath his liberty at any time within two Terms, upon a new Original to declare against him, for the same cause of Action, upon which he proceeded to the Outlawry.

By the constant Usage and Practice of this Court when a Defendant was sued to the Outlawry, he was obliged to appear in person, in this Court, with his Bail, though he lived in the most remote part of the Kingdom, to Reverse such Outlawry against him, unless the Court upon good grounds offered, upon motion for him by his Council, thought fit to let him Reverse it by his Attorney; but now by a late Act made in their present Majesties Reign, the Practice

Vld. Stat. de
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W.M. Cap. 18.

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Justice is altered in that point, and Defendants have liberty to appear upon Reversal of Outlawries by their Attornies, as the Practice now is, and always hath been in such Cases, in the Court of *Common Pleas*.

There is also another way of Reversing an Outlawry in this Court, and that is by Writ of Error, (as appears by the Register of Writs Judicial, fol. 133.) directed to the Chief Justice and the other Justices of the Court, his Associates; reciting *Quia in Record & Processu, Accediam in Promulgatione Utlagariæ in A. B. nuper de &c. in London' nuper promulgat. & coram nobis, ut dicitur, retornat. Error intervenit manifestus; ad grave dampnum ipsius A. sicut ex querela sua accepimus. Nos Errorem, si quis fuerit, modo debito corrigi, &c.* (as in other Writs of Error.)

This Writ you must bespeak of the Curitor, which when you have from him under Seal, you must carry it to the Clerk of the Errors of this Court, to get it returned; and if the Defendant, his Body or Goods be taken upon the *Capias Utlagatum* in the Vacation, and the Cause require Bail, you must put in Bail with the Clerk of the Errors, who thereupon will make out a *Superfedeas* to the Sheriff for discharge of the Defendants Body or Goods, or both, if they be thereby taken, and if they are not taken, he will forbear to execute the Writ.

And when the Writ is returned, you must bring the same, with the Return thereof, and all the Process of Outlawry thereupon, to be Entred upon the Rolls of the Filizer of that County where the Action lies.

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But this way of reversing Outlawries by Writs of Error, is seldom used, in regard the Clerks and Attornies or Practisers of this Court, do usually forbear Filing their Writs of Proclamation; by which means the Defendant may, if he please, by Motion only in Court, (as hath been before mentioned) Reverse the Outlawry for want of a Proclamation, and so appear to the Action.

By the Statute of 4 and 5 W. and M. Cap. 18. *Session 4.* above-mentioned, Reciting, "That whereas divers persons are Prosecuted in the Court of *Kings-Bench* to Outlawries, for Debts, Trespasses, and other Misdemeanors, and there is no Reversing such Outlawries but by the Personal Appearance of the persons Outlawed, so that the persons Arrested upon such Outlawries (if poor) lye in Prison till their deaths, but if able, it costs them very dear to Reverse the same Outlawries; It is Enacted, That from and after the first day of *Easter-Term* in the Year of our Lord 1693. for the more easy and speedy Reversing of Outlawries in the said Court, no Person or Persons whatsoever, who are, or shall be Outlawed in the said Court, for any Cause, Matter or Thing whatsoever (Treason or Felony only excepted) shall be compelled to come in person into, or appear in the said Court, to Reverse such Outlawry, but shall or may appear by Attorney, and Reverse the same without Bail in all Cases (except where special Bail shall be Ordered by the said Court.

And

“ And , That if any person or persons
 “ Outlawed, or hereafter to be Outlawed in
 “ the said Court (other than for Treason
 “ and Felony) shall from and after the first
 “ day of *Easter-Term*, be taken and Arrested
 “ upon any *Capias Utlagatum* out of the said
 “ Court, It shall and may be lawful to and
 “ for the Sheriff or Sheriffs who hath or shall
 “ have taken and Arrested such person and
 “ persons (in all cases where special Bail is
 “ required by the said Court) to take an
 “ Attornies engagement under his Hand to
 “ appear for the said Defendant or Defen-
 “ dants, and to Reverse the said Outlawries,
 “ and thereupon to discharge the said Defen-
 “ dants from such Arrests.

“ And in those Cases where special Bail
 “ is required by the said Court, the said She-
 “ riff and Sheriffs shall and may take Secu-
 “ rity of the said Defendant or Defendants
 “ by Bond, with one or more sufficient Sure-
 “ ty or Sureties, in the penalty of double
 “ the Sum for which special Bail is required,
 “ and no more for his, her, or their Appear-
 “ ance by Attorney in the said Court, at the
 “ Return of the said Writ, and to do and
 “ perform such things as shall be required by
 “ the said Court, and after such Bond taken,
 “ to discharge the said Defendant and De-
 “ fendants from the said Arrests.

“ And, That if any person or persons, Out-
 “ lawed as aforesaid, and taken and Arrested
 “ upon a *Capias Utlagatum*, shall not be able
 “ within the Return of the said Writ to give
 “ Security, as aforesaid, in Cases where spe-
 “ cial Bail is required, so as he or they are
 com-

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“ committed to Goal for default thereof,
 “ That whensoever the said Prisoner or Pri-
 “ soners shall find sufficient Security to the
 “ Sheriff or Sheriffs in whose custody he or
 “ they shall be, for his or their Appearance
 “ by Attorney in the said Court, at some Re-
 “ turn in the Term then next following, to
 “ Reverse the said Outlawry or Outlawries,
 “ and to do and perform such other thing and
 “ things as shall be required by the said
 “ Court, It shall and may be lawful to and
 “ for the said Sheriff and Sheriffs, after such
 “ Security taken, to Discharge and set at Li-
 “ berty the said Prisoner and Prisoners for
 “ the same ; any Law or Usage to the con-
 “ trary notwithstanding.

And thus much shall suffice for and touch-
 ing proceedings to the Outlawry in this Court.

Come we next to Treat of the Proceed-
 ings in Writs of *Audita Querela*, and upon
Statutes Merchant in this Court.

Audita Quere-
la, what.

Audita Querela is a Writ, and lyeth where
 one is bound in a Statute or Recognizance,
 or where Judgment is obtained against any
 Person for Debt, and his Body is taken in
 Execution thereupon, then if the Party so in
 Execution hath a Release or other matter
 pleadable to discharge him, but hath not a
 day in Court to plead it, he may have this
 Writ against him that hath recovered, or
 against his Executors ; And note, That this
 Writ lies in such Cases where the Party in
 Execution hath no other Remedy for his
 Relief but by this Writ. For which see *Fitz.*
Nat. Brevium, and *The Register of Writs*, Tit.
Audita Querela. This

This Writ you must bespeak of the Cur-
sitor, by delivering to him a *Præcipe*, accor-
ding to your Case; which Writ when you
have from him under Seal, you must bring
into Court, and allow with the Secondary,
who will Endorse *Allocatur* upon it, for which
you pay him 2 s.

If the Writ be grounded upon any Deed,
then (after you have proved the Deed in
Court, and put in sufficient Bail) by moving
the Court, you may have a *Supersedeas*, but
if your *Audita Querela* be not founded upon
any Deed, you cannot have one.

Note, The Bail you put in is to pay the
Mony, and not to render the Body or pay
the Mony.

After you have put in Bail, as aforesaid,
then you must have a *Scire facias*, or *Venire
facias*, to warn the adverse Party to shew
Cause, &c. which Writs must be returna-
ble — *Coram Nobis ubicunque fuerimus in An-
glia*, and not at a day certain, upon which
you ought to give notice to the Party, if you
can, otherwise you must get two *Nichils* re-
turned, and a Rule thereupon, by which
the Court will proceed to Judgment, viz.
*Quod Querens in Iudicio nullam habebit Execu-
tionem Iudicii sui*: Then you must file the
Writ of *Audita Querela* with the *Custos Bre-
vium*, and enter all the Proceedings on a
Roll, and mark the Judgment, by writing
under it, That such a Term and Roll that
Judgment was vacated, to prevent any one
making out Execution thereupon.

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Note, If the Defendant in the *Audita Querela* doth appear, and plead, then you must make up the Record, and go to Tryal, as in other Cases, and you may lay the Deed, upon which you ground your Writ of *Audita Querela*, to be made in that County where you intend to try your Cause, that being allowed now to be *Transitory*, which formerly was held strictly to be *Local*.

Statute Merchant.

In the next place we shall shew you how to proceed in this Court upon a *Statute Merchant*, or of the *Staple*.

First you must carry your Statute, or a Copy of it, to the Clerk of the Crown in *Chancery*, who will make for you thereupon a *Capias si laicus*, upon which you Return a *Nichil* or a *Mortuus est* of course, in this manner,

Infra nominat' A. B. laicus est, Et non est inventus (or Mortuus est) in Balliva mea.

C. D. Armiger Vic'.

Of which Writ and Return, you must make a Copy, and file it with the *Custos Brevium*, and make out Extents to the severall Sheriffs of as many Counties as the Defendant hath Lands in; upon which every Sheriff will Impannel a Jury, and inquire what Goods and Chattels, Lands and Tenements the Conusor hath, and return all he can find; Upon which the Attorney for the Plaintiff, who is the Conusee in the Statute, must bring an Ejectment for the Lands, and an Action of Trespass for the Goods against those that detain them.

Then

Then how to proceed upon *Quare Impedit* in this Court. *Quare Impedit.*

In this Action of *Quare Impedit*, the Attorney for the Plaintiff sets forth his Clyents Title at large in the Declaration, and the Ordinary, that is, the Bishop of the Diocess, where the Church is, sometimes is made Defendant, and pleads first, and after him the Incumbent pleads severally for himself, yet sometimes, as it may happen, they both plead the same Plea with some small variation.

Sometimes also, the Bishop, the Patron, and the Clerk that is presented last by the Bishop, are all made Defendants, and the Bishop by his Plea claims nothing but Institution, Induction, and Destitution of Persons to the Church, *ut loci illius Ordinarius*.

But the Plaintiff must reply severally to every one of the Defendants Pleas, and several Issues must be joyned thereupon, or Demurrers made thereunto; and if Issues be taken upon the said Pleas, then you must make up the Record, and proceed to Tryal, as in other Cases.

In the next place something shall be said touching the Proceedings of the Crown Office. *Crown Office.*

Of this Office *Samuel Astrey* Esquire is Master, where all Pleas of the Crown are Entered, which concern Treasons, Felonies, Murthers, and other Misdemeanors.

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The Master of this Office for the time being, is called *Coronator & Attorn' Domini Regis & Dominae Reginae in Cur' ipsorum Domini Regis & Dominae Reginae coram ipsis Rege & Regina*, and hath power to exhibit Informations by that name, for the Offences above mentioned.

Hither Indictments are removed by *Cerciorari* from all parts of the Kingdom, and Process made out upon them, to compel the Parties to appear, or be Outlawed; but if they appear and Plead, Issue is joyned thereupon, and Tried by *Nisi prius* at the Assises, as in other Cases between Party and Party.

In like manner all Inquisitions of *Felo's de se*, and Murthers by Misadventure are certified hither of course, in which Inquisitions the Goods and Chattels of the Parties that so came by their deaths are inserted, to make out their Majesties Title to the same; and in case their Title be Traversable, and be Tried by *Nisi prius* in the County where the Fact was committed, and the Issue be found for their Majesties, the Party or Parties in whose possession the said Goods and Chattels shall be found, shall be answerable to their Majesties for the same.

Also, If any person shall be Arrested by the Sheriffs or any other Officer, and the Party so Arrested be rescued out of the said Officers custody, and the Sheriff shall Return a Rescous upon the Writ by which the Defendant was taken, that Writ so returned shall be filed in this Office, and Process shall Issue out against the Rescuffor, to compel

pel him to appear, or else be Outlawed; and when he appears, he shall be fined at the discretion of the Court, and must appear in person in this Court, except the Court shall suffer him to appear by Attorney. But *Quere*, If the Defendant may not appear in this Case by Attorney, by the Equity of the Statute made in the 4th and 5th years of the Reign of their present Majesties, *Chap. 18. Entitled An Act to prevent malicious Informations in the Court of Kings Bench, and for the more easy Reversal of Outlawries in the same Court.*

For by that Statute it is Enacted ("For "the more easy and speedy Reversal of Outlawries in the said Court) That from and "after the first day of *Easter-Term*, which "shall be in the year of our Lord, 1693. "no person or persons whatsoever, who are "or shall be Outlawed in the said Court, "for any Cause, Matter or Thing whatsoever (Treason and Felony only excepted) "shall be compelled to come in person into, "or appear in Person in the said Court to "Reverse such Outlawry, but shall or may "appear by Attorney, and Reverse the same "without Bail in all Cases (except where "special Bail shall be Ordered by the said "Court.)

So that if any person be Outlawed for any of the Causes above-mentioned (unless for Treason and Felony, as before excepted in the said Act,) and would Reverse the Outlawry against him, he may now, by virtue of the said Act, appear by Attorney, and then some Friend, or his Attor-

Of the Practice of the

ny in Court must undertake to pay the Fine and his Fees.

In all Cases where the Party Defendant denies his Deed, and it be found against him upon Issue joyned in this Court, or where he is found guilty in any Action of Trespass, Assault, Battery, Imprisonment, or otherwise, wherein the words *Vi & Armis* and *Contra Pacem*, are used, the Judgment is entred *Quod Defendens Capiatur pro Fine*,

Notes of which Judgments are taken from the Rolls, by the Clerks of this Office, who make Process thereupon to cause the Defendant to appear, or otherwise be Outlawed; but upon appearance he is Fined 6 s. 8 d. in paying whereof and his Fees, he is dismissed. But if the Damages recovered against the Defendant in any Action *Vi & Armis* and *Contra Pacem*, as aforesaid, shall exceed forty shillings, then the Fine set upon the Defendant shall be two shillings per pound, after the first forty shillings.

If any Person shall contemn or disobey any the Rules and Orders of this Court, and proof thereof be made by Affidavit, the Master of this Office will Issue out an Attachment thereupon, against the Party offending, who must appear in person in this Court, and enter into Recognizance to answer to such Interrogatories as shall be exhibited against him in this Office, and shall be examined thereupon by the Master of this Office for the time being, upon Oath, whether he hath contemned or disobeyed any of the Rules so objected against him, and in case he shall acquit himself, upon moving the

the Court, and setting forth his Innocence therein, he shall be discharged of the Crime laid to his charge, but otherwise, if he appear to be guilty thereof, he shall be fined for such his Contempt, as the Court shall think fit.

Likewise, if Costs be Taxed between Party and Party in any Action in this Court, for not going to Trial, or otherwise, and Affidavit be made of the demand of such Costs so Taxed, and of the refusal of the Party who should pay the same, the Court upon Motion, will grant an Attachment against him, for denying to pay the said Costs, and upon his Appearance Interrogatories shall be exhibited against him in this Office, and he shall be examined by the Master of this Office thereupon, and if he acquit himself, shall be discharged upon Motion, or otherwise be fined at the discretion of the Court, as above is declared.

Also, where Judgment is given at any Sessions of the Peace, upon Indictment, the Defendant may (by Warrant under the Hand of the Attorney General) get the Curfitor of the County where the Indictment was exhibited, to make him a Writ of Error, returnable in this Court, upon which the Plaintiff in the Error must appear personally, and assign Error in Court, and find Bail to prosecute his Writ of Error with effect, and upon affirmance of the Judgment, pay such Fine as the Court (where the Indictment was exhibited) did assess upon him, if they proceeded so far as to impose a Fine; otherwise to submit to a Fine at the discretion

Of the Practice of the

of this Court: but if Judgment be reversed, then he shall be dismissed, upon payment of his Fees.

Also, all Orders of Sessions for keeping Bastard Children, relief of the Poor, or maintenance of maimed Soldiers, or otherwise; Orders of Commissioners of Sewers, or pains and Penalties imposed in Courts Leet, these may be removed into this Court by *Cerciorari*, and be here affirmed or quashed according to Law; which *Cerciorari* will be granted by a Judge of this Court, either in or out of Term.

Stat. 4 and 5
G. & M. c. 18.
to prevent
malicious In-
formations in
the Crown
Office.

By the Statute of 4 and 5 *Gul. & Maria*,
Cap. 18. above-mentioned, Reciting, "That
"whereas divers malicious and contenti-
"ous Persons have more of late than in
"times past, procured to be exhibited and
"prosecuted Informations in their Majesties
"Court of *Kings-Bench* at *Westminster*, against
"persons in all the Counties in *England*, for
"Trespases, Batteries, and other Misde-
"meanors, and after the Parties so informed
"against, have appeared to such Informa-
"tions, and pleaded to Issue, the Informers
"do very seldom proceed any farther,
"whereby the persons so informed against
"are put to great Charges in their de-
"fence; and although at the Tryals of such
"Informations, Verdicts are given for them,
"or a *Nolle prosequi* be entred against them,
"they have no remedy for obtaining Costs
"against such Informers. For remedy where-
"of, it is thereby Enacted, That from and
"after the first day of *Easter* Term, which
"shall be in the year of our Lord, 1693. the
"Clerk

" Clerk of the Crown, in the said Court of
 " *Kings Bench*, for the time being, shall not
 " without exprefs Order to be given by the
 " said Court, in open Court, Exhibit, Re-
 " ceive or File any Information for any of
 " the Causes aforesaid, or Issue out any Pro-
 " cess thereupon, before he shall have taken
 " or shall have delivered to him a Recogni-
 " zance from the person or persons procu-
 " ring such Information to be exhibited, with
 " the place of his, her, or their Abode, Title or
 " Profession, to be Entred into to the person
 " or persons against whom such Informa-
 " tion or Informations is, or are to be Ex-
 " hibited, in the Penalty of twenty pounds,
 " that he, she or they will effectually prose-
 " cute such Information or Informations,
 " and abide by and observe such Orders as
 " the said Court shall direct; Which Recogni-
 " zance the said Clerk of the Crown, and
 " also every Justice of the Peace of any
 " County, City, Franchise, or Town Cor-
 " porate, (where the cause of any such In-
 " formation shall arise) are hereby impow-
 " red to take; after the taking whereof by
 " the said Clerk of the Crown, or the Re-
 " ceipt thereof from any Justice of the Peace,
 " the said Clerk of the Crown shall make
 " an Entry thereof upon Record, and shall
 " File a *Memorandum* thereof in some pub-
 " lick place in his Office, that all persons
 " may resort thereto without Fee.

" And in case any Person or Persons against
 " whom any Information or Informations
 " for the Causes aforesaid, or any of them,
 " shall appear thereunto, and plead to Issue,
 " and

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" and that the Prosecutor or Prosecutors of
 " such Information or Informations, shall
 " not at his or their own proper Costs and
 " Charges, within one whole year next after
 " Issue joyned therein, procure the same to
 " be Tried; or if upon such Trial a Verdict
 " pass for the Defendant, or Defendants;
 " or in case the said Informer or Informers
 " procure a *Nolle prosequi* to be Entred, then
 " in any of the said cases, the said Court
 " of *Kings Bench* is hereby authorized to
 " Award to the said Defendant or Defen-
 " dants, his, her or their Costs, unless the
 " Judge before whom such Information shall
 " be Tried, shall at the Trial of such Infor-
 " mation in open Court, certifie upon Re-
 " cord, That there was a reasonable cause
 " for Exhibiting such Information.

" And in case the said Informer or Infor-
 " mers shall not within three Months next
 " after the said Costs taxed, and demand
 " made thereof, pay the said Defendant or
 " Defendants, the said Costs, then the said
 " Defendant or Defendants shall have the
 " benefit of the said Recognizance, to compel
 " them thereunto.

" Provided, That nothing in this Act
 " relating to Informations shall extend or
 " be construed to extend to any other In-
 " formations than to such as are, or shall
 " be exhibited in the Name of their Ma-
 " jesties Coroner, or Attorney in the Court
 " of *Kings Bench*, for the time being (com-
 " monly called the Master of the Crown
 " Office) any thing contained to the contrary
 " notwithstanding.

And

And it is farther thereby Enacted, "That upon Demise of any King or Queen of this Realm, all Pleas to Informations in the said Court, shall stand and be good in Law, without calling the Defendants to plead again to the same, unless the Defendants desire so to do, and make Requests to the said Court for that purpose, within five Months next after such demise; any Law or Usage to the contrary notwithstanding.

But the Attorney General may, (notwithstanding this Act) exhibit into the Crown Office of this Court, a *Quo Warranto* against any particular person, or Lord of a Manor, or Body Politick, or Corporate, who shall claim or use any Franchises or Liberties, not having any legal Grant or Prescription for the same; as touching Picage, Pontage, Stallage, or any other kind of Tolls, or a Forest, Chase, Park, Free-Warren; or a Fair, Market, Ferry, &c. and compell him or them by Process issuing out of this Court, to appear in this Office, and shew cause, or set forth by way of Pleading, by what Title or Warrant he or they do claim or exercise such Franchizes or Liberties, and Issue shall be joyned, and tried thereupon by *Nisi prius*, or the Plea shall be determined by the Judges upon Demurrer, as in other cases touching Pleas of the Crown in this Court.

General

Of the Practice of the

*General Rules and Orders of Court touching the Practice thereof.**Concerning Clerks, Attornies, and other Officers of this Court.*

No Person shall be admitted to Practise in this Court as a Common Solicitor, unless he be admitted an Attorney of this Court, or of the Court of *Common Pleas*; except it be only to manage an Evidence at a Trial, or as a private Solicitor or Servant of a Corporation, or only to sollicite the Business of his Master.

Nor shall any person Practise as an Attorney of this Court, unless he hath practised as a common Solicitor therein, by the space of five years, or hath served as a Clerk to some Judge, Serjeant at Law, practising Counsellor, Clerk, or Officer of one of the Courts at *Westminster*; unless his Master dye, or give over his practice; and that such person so offering himself to be admitted an Attorney, shall likewise upon examination be found of good Ability and Honesty for such Employment; and sufficient Proof (by Certificate in Writing) shall be made of such Service to the Prothonotary or Secondary of this Court, upon desire of Admittance, to be filed without Fee.

Nor shall any person Practise in anothers Name, or any Attorney knowingly permit another in his Name, on Penalty of being put out of the Roll.

Also,

Also, if any Attorney be dismissed by any other Court, from Practising therein for Misdemeanors, such Attorney shall not afterwards upon Certificate, be admitted to practise in this Court, because it is contrary to the intent of the Law.

Neither will this Court allow any Under-Sheriff, Sheriffs-Bailiff, or Bailiff of any Liberty, during such their Employment to practise as Attornies, and such persons are forbidden by this Court so to do, on penalty to be expelled from exercising the Office of an Attorney of this Court, and not to be re-admitted.

Also, if any Attorney shall absent himself and not attend his Employment in this Court, for the space of one whole Year together, unless hindred by sickness, he shall not be allowed his Priviledge of an Attorney.

Likewise to prevent Maintenance and Brokage, no Attorney shall be Lessee in any Action of *Ejectione Firme*, nor Bail for any Defendant in this Court, in any Action.

Nor by the constant Usage of this Court, ought any Rolls to be delivered out to be Entred by any Attorney or other person, except to the Prothonotaries Enttring Clerks (commonly called the Clerks of the Office.) And if any such Clerk, to whom Rolls are so delivered, shall suffer them to be carried into the Country, he will thereby be in danger of excluding himself from Enttring any more Rolls afterwards, as a Clerk of the Office.

Also,

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Also, according to the Rules of this Court in pursuance of the Statute of 31 *Eliz.* all Attornies that sue out Process of Exigent, must be careful that Writs of Proclamation be delivered to the Sheriffs, who are to take care duly to execute the same.

Likewise, if any Sheriff, Under-Sheriff, their Deputies or Bailiffs, or the Bailiff of any Liberty, shall wilfully delay the execution of any Process, or Execution, or the Return of any Process or Execution, or shall take or require any undue Fees for the same, or shall give notice to the Defendant, thereby to frustrate the Execution of any Writ or Process; or having levied doth detain the Money in their Hands, after the times of the Returns of such Writs: Besides the ordinary course of Amercements, the Contempt or Misdemeanor appearing, the Officers so offending, shall be liable to an Attachment, Information, Commitment or Fine, as the Case requireth; and this as well in case of a late Sheriff or Person before-mentioned, as of them in Office.

And for Reformation of Abuses by Blank Warrants, granted by Sheriffs, whereby persons are Arrested, and forced to extorted Compositions for their Liberty, without Process of Law; This Court doth forbid Warrants to be granted out to any Officer to Arrest or Attach any person before a Writ first come to the Sheriff; And this Court doth also forbid the taking of immoderate and excessive Fees by Sheriffs for executing Writs of Possession, and restoring Possession, contrary to Law; declaring, That such immoderate

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Court of Kings Bench.

III

derate Fees ought not to be taken, and in case such Fees shall be taken, that this Court will proceed to punish the same according to Law.

That all Officers and Attornies of this Court ought to be admitted of some Inns of Court or *Chancery* in the same Term wherein they are admitted Officers or Attornies, or within some convenient time after, and to be in Commons one week in every Term, and to take Chambers or Dwellings in some convenient places, and leave notice with the Butler, where their Chambers or Habitations are, *Mich. Anno Domini 1654. in B. S. per Ordinationes & Regulas Generales istius Curiae.*

By the same Orders and General Rules, made in *Michaelmas*-Term 1654. all Officers and Attornies of this Court ought to appear in person in this Court, upon or before the fourteenth day of *Michaelmas*-Term, and upon or before the seventh day of every other Term.

And *Mich. 13 Car. secundi Regis.* It was Orderered by the Court, That all Attornies, of this Court shall appear in their proper Persons upon or before the fourteenth day of the Term of *St. Michael*, and upon or before the seventh day of every other Term, upon pain of forfeiting for the first default ten shillings, and for the second default twenty shillings.

And that every Attorney shall Enter in the Office of this Court, all Pleas and Demurrers in Law, within three days after every Term. And that no Rules shall be made by any

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any Justice of this Court, in any Action depending in the said Court, after the third day next after the end of any Term; and that no Attorney of the said Court shall attend any the said Justices to make any Rules after the third day next after the end of any Term. And that no Rules shall be made by consent of Attornies, after the third day after the end of any Term; and that all Rules made after the third day after the end of any Term, shall be void.

And by the said Orders and Rules made in *Michaelmas* Term 1654. every Sheriff ought to have his Deputy in this Court, to Return and receive Writs.

And that yearly before *Hillary*-Term, each Deputy ought to have his Name, and the place of his Residence in *London* or *Westminster*, set and continued up in a Table in the Office of the Prothonotary of this Court.

Likewise in *Easter* Term, in the fifteenth year of King *Charles* the Second, It was Ordered, That every Sheriff shall make and cause to be Entred on Record, in this Court, a sufficient Deputy to receive all Writs and Procefs, under the Penalties mentioned in the Stat. of 23 H. 6. which Law shall be duly put in execution.

And that the said Sheriffs or their Deputies shall personally attend in *Westminster* Hall, daily, in Term time, that they may more conveniently dispatch the Services belonging to their respective Offices.

And

And that no Sheriff, or his Deputy shall make out or deliver, or cause to be made or delivered, any Warrant before the Writ be duly sued out and delivered to him or his Deputy.

Nor shall such Sheriff or Deputy deliver or cause to be delivered, any Blank Warrants to any Clerk or Attorney of this Court; nor shall such Clerk or Attorney receive or procure to be made any such Blank Warrant or Warrants, upon pain of severe Punishment and Fine to be imposed upon such Sheriffs and Deputies, and utter Expulsion of such Clerks and Attornies from practising in this Court.

Also by the Rules and Orders of *Michaels* Term 1654. the Clerks of Assize, their Deputies and Assistants, must personally appear with their *Postes* on the first day of *Easter* and *Michaelmas* Term; and that the Deputy Sheriffs, and all other Officers of the Court, ought personally to appear, by the *Essoin* day of every second Return of every Term, and to continue during the residue of the Term, without some just cause to the contrary shall be allowed by the Court.

By Rule made in *Easter* Term, in the thirteenth year of King *Charles* the second, It was Ordered by this Court, That the Clerks of the Chief Clerks of this Court shall have Seats in *Westminster* Hall, in that part of the Hall where they anciently had Seats, and where eight Shops are now erected, such Seats to be assigned to such Clerks by the Secondary of such Chief Clerks for the time being.

I

And

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And by Rule made in *Michaelmas* Term the same year, It was Ordered by the Justices of the said Court, That whereas by complaint of the Chief Clerks of this Court, and their Clerks, this Court was given to understand and informed, That whereas, according to the ancient Usage and Custom of this Court, the Keepers of the Seal of his Majesty and of this Court, have allowed and used to allow to every Clerk of the Chief Clerks of this Court, and to every Clerk of such Clerk, at the end of every Term, the sealing of one Writ *gratis*, without any thing to be paid for the same, by the name of *Feo vous prie*.

And that such Allowance by such Keepers of the aforesaid Seal, hath been lately denied and detained; It is Ordered, That the said allowance to the Clerks aforesaid, according to the ancient usage of this Court for the future, shall be allowed by the Keepers of the Seal of his Majesty, and of this Court, unless the said Keepers of the aforesaid Seal shall shew cause to the contrary, on *Monday* next after the Morrow of *All-Souls*.

Likewise, by Rule made by the Justices of this Court, in *Easter* Term, in the fifteenth year of King *Charles* the second, It is Ordered, That the Keepers or Deputy Keepers of the Seal of this Court, shall not Seal or suffer to be sealed, any *Latitat*, *Habeas Corpus*, *Subpoena*, *Scire facias*, or other signable Writs, issuing out of this Court, except the same be first signed by the Sign of

of this Court, kept by the Clerk appointed for that purpose.

In like manner, It was Ordered by this Court in *Michaelmas* Term, in the fifteenth year of the Reign of King *Charles* the second, That every Clerk of this Court shall every Term, at the time of making up his Account, pay to the Officer of this Court, who receives the Bills here in Court, to be filed upon Record, the ancient Fee of two Shillings for every Attorney and Filizer of this Court, who retains the said Clerk, to act and enter Suits and Business in the same Court here depending.

Also in *Michaelmas* Term, *Anno 15 Car. 2.* It was Ordered by the Court, for avoiding oppression, by colour of Process issuing out of this Court, That no Attorney shall presume at his Peril, to make or cause to be made out, any Precept, or Writ, with the Clause *Acetiam Billa, &c.* against any Heir, Executor or Administrator, nor in any case whatsoever, where by the course of the Court special Bail is not required, or ought to be demanded. .

And if the Defendant shall be lawfully discharged from Arrest, upon any Process, such Defendant shall not again be Arrested the same time, upon any Process, at the Suit of any Plaintiff.

And if any Attorney or Plaintiff in such Process named, shall offend in the Premises, the Name of every such Attorney so offending, shall be put out of the Roll of Attornies.

And moreover, as well the said Attorney, as the Plaintiff in the same Process named,

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shall be respectively punished as to the Court shall seem meet.

And lastly, by a Rule made in *Hillary* Term, in the fifteenth and sixteenth years of the Reign of King *Charles* the second, It is Ordered, That every Clerk of this Court shall accompt with the Secondary of the said Court, within six days next after the end of every *Easter* Term, and within eight days next after the end of every *Michaelmas* Term, and within ten days next after the end of every *Trintiy* Term and *Hillary* Term, according to the ancient Custom, and severall former Rules of this Court.

And that every Clerk for the future offending in the Premisses, shall for the first Offence be suspended from the Priviledge of his Practice, and that no Writs shall be signed in his Name, nor shall the Rolls of his Entries be received or taken into the Office, until he shall have accounted and paid the Monies thereupon due.

And that for the second Offence in the Premisses, he shall be put out of the Roll of the Clerks of this Court, at the discretion of the Chief Clerk or the Secondary of the said Court.

Rules of Court concerning Declarations.

It is not the course and way of Proceeding in this Court, to repeat the Original Writ in Declarations of Actions upon the Case, or personal Actions upon any general Statute (as Hue-and-Cry, Monopolies, or for a Suit in the Admiralty, &c.)

ex.

except in Debt; but only to set forth the nature of the Action in this manner, *Viz.*

A. B. queritur de C. D. in Custod. Marr' Marefc' Domini Regis & Domine Reginae coram Iphis Rege & Regina Existen' de placito Transgr' super Casum; or de placito Transgr' & Contempti' contra formam Statuti.

But in Trespafs, *Quare Clausum fregit*, the Plaintiff must in his Declaration mention the place certainly where the Trespafs was committed, to prevent the use and necessity of the common Bar and new Assignment.

So, of late it is Ordered by Rule of this Court, made in *Michaelmas Term Anno 15 Caroli Secundi Regis*, That the Plaintiffs Attorney shall at his Peril, in all Actions prosecuted in this Court (where the cause of Action is said to be done *vi & armis, seu contra pacem Domini Regis*) insert the true addition of the Degree, Quality, Miltery, Trade or Profession, as also the true and certain place of Abode or Habitation of every Defendant.

Likewise in Covenant, there must be put no more of the Deed in the Declaration than is useful for assigning of the Breach (not repeating the Covenant in the Conclusion.)

Neither ought there to be used any long Preambles or inducements incerted more than necessary, in Actions upon the Case for slander, unless where a special inducement or Colloquium is requisite.

The like is to be observed (as hath been said before) in Actions upon General Statutes, where the whole Statute is not to be recited *Verbatim*, but only the substance of it in the Declaration, and so conclude it *contra*

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tra formam Statuti inde editi & provisum, as in an Action of Debt, upon the Statute of 2 *Edw. 6.* for Tithes, or upon the Statute of 32 *H. 8.* for Maintenance, or upon 21 *Jacobi primi* for Monopolies, &c.

Also, where the Plaintiff declares in Debt, upon a Judgment recovered in any of the Courts of Record at *Westminster* (unless the Declaration be against an Executor, or Administrator) the Judgment in those Cases ought only to be recited.

But if the Judgment be recovered in any Inferior Court, or by or against an Executor or Administrator, then the course is to make recital both of the Declaration and Judgment.

But if the Plaintiff proceeds by Original, then it is usual to declare in this Court in the same manner as the Court of *Common Pleas* hath used, of which you have Examples before in this Book.

All Actions upon the Case, Trespas, Trover, Assault, or Imprisonment arising in any English County, must be laid in their proper Counties, unless they do arise in such places where the Justices of *Nisi prius* do seldom come.

And because Trespas, Trover, Battery, Imprisonment and Slander must needs be notorious in what County they arise, therefore no Attorney ought knowingly to lay them out of their proper Counties, unless for the Causes before expressed, or such other as shall be allowed of by the Judges of this Court.

By the course of the Court, the Plaintiff may, either paying Costs or giving Imparlance,

lance; at the Election of the Defendant, amend his Declaration before it be Entred.

Also, if the amendment be not so great as to deface the Roll, it may by Rule of Court, direction of a Judge, or by consent of the Attornies on both sides, be amended after Entry thereof.

Likewise, the Plaintiff may amend his Declaration in matter of Form, after a general Issue pleaded, before Entry, without paying Costs, or giving Imparance.

But if the Plaintiff amend his Declaration in matter of substance, then he shall pay Costs, or give Imparance at his Election.

And if the Plaintiff shall amend his Declaration in matter of substance, after a special Plea pleaded, that then he shall pay Costs, though he would give an Imparance.

But by the course of Practice in this Court, the Plaintiff may amend his Bill upon the File, at any time before Plea pleaded, but not afterwards, without Motion.

But the Plaintiff, after a Plea pleaded, or before or after the second Term, shall not add a new Count to his Declaration, as an *Indebitatus Assumpsit*, or the like, upon pretence of amending his Declaration.

And what hath been already said concerning the succinctness of Declarations, ought to be observed in Pleading.

For it being the constant Practice of this Court in Actions of Trespass, to mention in the Declaration the place certainly where the Trespass was committed, the Common Bar and new Assignment are not to be pleaded, because the certainty contained in

Of the Practice of the

the Declaration is equivalent to a New Assignment.

But *Quere*, if the Common Bar and New Assignment may not be pleaded to an Action of Trespass commenced by Original, and see for this *Brownlow's Latine Redivivus*, Tit. Trespass.

Also, for avoiding unnecessary Repetitions in pleading, no Attorney in pleading an Outlawry ought to repeat the mean Process, but joyn the Exigent and Outlawry to the commencing of the Suit.

Neither ought the Attorney in pleading a General Statute, to recite the same; as the Statute of 21 *Jacobi primi*, of Limitations.

Likewise, by the practice of this Court, If an Infant declare by Gardian, or *Prochein Amy*, the Defendant is not compellable to plead until the Plaintiffs Attorney shews a Rule of Court for the Infants Admittance.

Neither, if an Infant be sued, can he regularly appear or plead by Gardian without Admittance.

But if an Infant happen so to do, it is only a Misdemeanor in his Attorney, for which the Court may punish him, if they please, but no Error.

Also, according to the practice of this Court, If the Defendant hath pleaded one Outlawry in disability of the Plaintiff, and that be Reversed, he shall not plead another in disability.

But *Quere*, If he may not plead another Outlawry in Bar.

According to the practice of this Court, If the Defendant shall happen to die before the

the return of the *Capias* against him, his Bail may plead it and be discharged.

So if a Cause have continued four Terms without Prosecution, before Issue joyned, the Defendant is to have a Terms notice to plead, &c. before Judgment can be Entered by default.

And if the Cause have continued four Terms without Prosecution, after Issue joyned, the Defendant is to have a Terms notice before the Trial.

Likewise, an Attorney of this Court, accepting a Warrant to him directed to appear for the Defendant, or subscribing the same, and doth not cause an Appearance to be Entered accordingly, shall the next Term be compelled to Enter his Appearance of the precedent Term, and plead to Issue, or in default of pleading, Judgment to be Entered by default.

And according to the practice of this Court, a Defendant having pleaded to Issue, and the Plaintiff having neglected to Enter the Issue, the same Term Issue is joyned, the Defendant within the first five days after the next Term, may alter his Plea, and plead *de novo*, any other Plea what he pleaseth.

Also, In Causes in *London* and *Middlesex*, where the Defendant appears upon a *Capi Corpus*, if the Declaration be delivered before the Effoin day of *Crastinum Animarum* in *Michaelmas* Term, or before the Effoin day of *Mensem Paschæ* in *Easter* Term, the Defendant shall plead to Enter as of that Term, upon the Plaintiffs giving Rules with the Secondary for him so to do.

And

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And by Rule of Court made in *Trinity* Term, in the sixteenth year of King *Charles* the second, It is Ordered by this Court, That no Attorney or Clerk attending here in Court, shall presume to deliver to any other Attorney or Clerk attending here in Court, or to any other person; or to take from any other Attorney or Clerk attending here in Court, or from any other person, any Plea to be put into the Office of Clerks of the Papers, or Copy of such Plea, before such Plea shall have been put into the said Office of Clerks of the Papers.

And that such Copy after that such Plea shall be put in, shall be made by the Clerk (in the aforesaid Office of Clerks of the Papers) attending, and signed, on Penalty that every Attorney or Clerk attending here in Court, shall forfeit, for his first Offence so committed, ten shillings, to be paid to the Box, for the Use of the Poor; and for his second Offence so committed, twenty shillings, to be paid likewise to the Box, for the Use of the Poor; and for his third Offence so committed, that such Attorney or Clerk shall be expelled from this Court, according to a former peremptory and general Rule, made in the like Case by the Court, in full Court, on *Wednesday* next, after three Weeks of the *Holy Trinity*, in the second year of the Reign of the late King *James* the first, over *England*, &c.

So, by Rule of Court made in *Easter* Term in the eighteenth year of the Reign of King *Charles* the second, It is Ordered by the Court, That no special Pleas or Demur-
rers

ers in Law, in any Cause depending in this Court, or hereafter to be prosecuted therein, shall be received by the Clerks of the Papers of this Court, before that such Pleas or Demurrers in Law, shall be signed by the proper Hand of some Counsellor in that behalf retained.

And it is farther Ordered, That the Clerks of the Papers of this Court, shall in all Copies of Pleas and Paper-Books by them made, subscribe such Copies of Pleas and Paper-Books, with the Counsellors Name who hath signed such Pleas, as well on part of the Plaintiff, as on the part of the Defendant.

And that in all Books to be delivered to the Justices of this Court, the Names of the Council who shall Sign those Pleas, as well on the Plaintiffs part, as on the part of the Defendant, should be subscribed to such Books by the Clerks or Attornies who should deliver the same.

Concerning Bail.

By the Rules of this Court made in *Michaelmas* Term, 1654. Special Bail is required in all Causes of Removal, be it by *Habeas Corpus cum Causa*, Writ of Privilege, or *Cerciorari*.

And if the Action be Transitory and removed out of the Courts of *Canterbury*, *Southampton*, *Hull*, *Lichfield*, or *Pool*, where the Judges of *Nisi prius* do seldom come, the Action must be laid in the County where either the Cities or Towns, or Counties
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above-mentioned do lie, as *Kent, Southampton, York, Stafford and Dorset.*

But in all Actions where the Damages are incertain, until Declaration, as in Covenant, &c. the Bail shall be at the discretion of the Court.

And so it is in Priviledge, at the Suit of an Attorney, in such Cases where a common Person cannot have special Bail, unless the Plaintiff sues for Fees, &c. as a Minister of this Court.

Neither doth this Court allow special Bail in Actions of Assault, Conspiracy, or false Imprisonment, without Motion or Rule of Court.

Nor doth this Court allow special Bail in Actions of Slander (except it be for Slander of the Plaintiffs Title) but at the discretion of the Judges of the Court.

Also, If a Defendant be removed by *Habeas Corpus* from the Inferior Courts of *London, Westminster, Southwark*, or any other limited Jurisdiction, within five Miles of *London*, and intends to be Bailed thereupon, he ought within four days next after the allowance of such Writ, to give notice in writing of the Names, and addition of the Bail, the time when, and the Judge before whom the same is intended to be put in, to the Plaintiff or his Attorney, or to him who caused the Plaint to be entred in the Court below.

And if none of these can be found, then notice, as aforesaid, ought to be left in writing with the Chief Clerk of the Inferior Court, or his Deputy, by him who tenders
the

the Bail, or his Attorney, and Oath to be made thereof; or otherwise the Bail not to be taken, but a *Procedendo* to be granted upon Request, before Bail shall be accepted.

Likewise, if no Bail shall in such Cases be put in within eight days after the *Habeas Corpus* allowed in the Inferior Courts, before-mentioned, when it is returnable *immediate*, according to the usual Practice, any Judge of this Court may upon request, grant a *Procedendo* before Bail be taken.

And if Bail be taken in the absence of the Plaintiff or his Attorney, the same is to be taken, *de bene esse*.

And if no Exceptions be taken within twenty days after notice given to the Plaintiff or his Attorney, of the Names of the Bail, and before whom taken; then the Bail-piece ought upon Oath made of such notice to be delivered out to be filed.

But, if the Bail be taken upon a *Habeas Corpus*, before any Judge of this Court, at his Chamber, and be not excepted against within twenty days after notice, as aforesaid, if such Bail be not filed within four days after the said twenty days, a *Procedendo* shall be granted upon Certificate that the said Bail is not filed.

Also, if the Defendant in an Inferior Court, in any the Cases aforesaid, shall omit putting in Bail, according to the Rules and Method before prescribed, the Plaintiff in the said Action or Plaint, may speed the Defendant to put in, or File his Bail, by Rules given; and if he doth not file the same according

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ording to such Rules, upon Certificate thereof a *Procedendo* will be granted.

By the course of proceedings in this Court, agreed upon by the ancient Clerks thereof, 2 April, 1669. It is thereby declared touching Writs of *Scire Facias* against Bail, That there ought to be seven days at the least exclusive between the *Teste* and Return of each Writ of *Scire Facias* against Bail, and not one four or five days, and the other ten or eleven days.

Likewise touching the *Teste* of a *Capias* to warrant a *Scire Facias* against Bail, and the time to be observed in delivering the same to the Sheriff, It is declared, That there must be seven days exclusive between the *Teste* and Return of every *Capias* to warrant a *Scire Facias* against Bail, and that the *Capias* ought to be delivered to the Sheriff four days before the Return be out.

Also, in what Case the Bail shall be discharged upon the Defendants rendring himself, It is said, That if the Defendant render himself to custody in discharge of his Bail, upon the day of Return of the second *Scire Facias* against the Bail, *sedente Curia*, or if an Action be brought upon the Recognizance, if he render himself upon the day of the Return of the Process against the Bail, *sedente Curia*, the Bail shall be discharged.

And that if a Defendant render himself, in discharge of his Bail, after Judgment, yet if the Plaintiff commit him not in Execution in three Terms following, he shall be discharged upon common Bail, as if he was

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committed for want of Bail upon Action.

And, That if a Writ be sued out against Husband and Wife, and the Wife be only arrested and detained in Prison, she shall file a Common Bail, and have a *Supersedeas* to discharge her, but if the Husband be only arrested, he must appear for himself and his Wife.

Likewise, If a Defendant give a Judgment with *Cesset Executio* till a certain day, yet the Plaintiff may sue forth a *Capias* or a *Scire facias* into the County where the Action is laid, returnable before that day, to enable him at the day to take a *Testatum* against the Defendant; but he shall not in that Case sue out a *Capias* to warrant a *Fieri Facias* against the Bail, except by special Agreement, because it tends to the prejudice of a third person; and the *Capias* in that Case ought to be delivered to the Sheriff, four days before the Return be past, and there ought to be eight days between the *Teste* and the Return thereof.

And, that if the Defendant dye before the Return of the *Capias* against him, his Bail may plead it and be discharged.

Also, That if a Defendant render himself to the custody of the Marshal in discharge of his Bail, and the Bail-piece be discharged by the Secondary, no *Scire Facias* can be afterwards sued out upon that Recognizance.

And by Rule of Court made in *Trinity* Term, in the thirteenth year of the Reign of King *Charles* the second, concerning the filing of special Bail, It is Ordered, That every

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every Attorney of this Court, who shall put in any Bail by Recognizance, before the Chief Justice, or any other Justice of the Court, and the Plaintiff or his Attorney shall accept thereof, that then the Attorney who puts in such Bail shall cause the same to be filed within twenty days after such acceptance thereof, upon Penalty of forty shillings.

And that all Bails taken *de bene esse*, and that are accepted by Attornies for the Plaintiff, and remaining with any Justice of this Court, shall likewise be filed within twenty days next following, under the like Penalty of forty shillings.

Also by Rule made in *Trinity Term*, in the fourteenth year of King *Charles* the second, It was Ordered by the Court, That in every Action of Ejectment to be brought in this Court, if the Lands lye in the County of *Middlesex*, then a Bill of *Middlesex* shall be prosecuted. And if the Lands lye without the County of *Middlesex*, then a Writ of *Latitat* shall be prosecuted against the casual Ejector, called the Defendant in every such Action.

And also that Common Bail shall be filed for such Defendant before that any Declaration by Bill in such Action shall be delivered to any Tenant in possession of the Tenements specified in such Declaration.

And that if any Attorney of this Court for the Plaintiff shall make default in the performance thereof, that then no Judgment shall be Entred for the Plaintiff against the casual Ejector, nor shall the Tenant

nant in possession confess Lease, Entry and
Ouster of the Tenements mentioned in such
Declaration at Tryal of the Issue between the
Parties aforesaid.

Likewise by Rule of Court made in *Michaelmas* Term, in the fifteenth year of King
Charles the second, touching the Clause of
Aceciam Bille, inserted in the Process issuing
out of this Court, and putting in special
Bail thereupon; It is Ordered by the Court,
for avoiding Oppression, by colour of Pro-
cess issuing out of this Court, That no At-
torney do presume, at his Peril, to make or
cause to be made, any Precept or Writ,
with the Clause (*aceciam, &c.*) against any
Heir, Executor or Administrator, nor in any
case whatsoever, where by the course of
the Court special Bail ought not to be requi-
red.

And that if the Defendant shall be law-
fully discharged from Arrest upon any Pro-
cess, the said Defendant shall not be arrested
again the same time by virtue of any other
Process at the Suit of the same Plaintiff.

And if any Attorney or Plaintiff in the
said Process named, shall offend in the Pre-
misses, the name of such Attorney so offend-
ing, shall be put out of the Roll of Attor-
nies.

And moreover as well the said Attorney as
the Plaintiff in the said Process named, shall
respectively be punished, as to the Court
shall seem just.

Also, by Rule of Court made in *Michael-
mas* Term, in the sixteenth year of the
Reign of King *Charles* the second, touch-
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ing putting in Bail *de bene esse*, before a Judge, making Exceptions to the same for insufficiency, and filing the same when accepted of by the Plaintiffs Attorney; It is Ordered by the Court, That every Attorney of this Court, who shall appear for any Defendant, in any Action in which special Bail is not required, shall file common Bail for such Defendant, within six days next after the end of every Term of which he hath appeared.

And that every Attorney of this Court who shall put in any special Bail before any Justice of this Court, *de bene esse*, upon a *Cepi Corpus*, shall give notice thereof, without delay to the Plaintiff or his Attorney.

And if the Plaintiff shall not challenge such for the Insufficiency thereof, within twenty days next after notice to him or his Attorney thereof given, then upon Oath made in Writing thereof, on the back of such Bail (for which Oath no Fee shall be taken) such Bail shall be filed by the Defendants Attorney, within four days next after the end of the aforesaid twenty days.

And that every Attorney of this Court who shall put in any special Bail before any Justice of this Court, *de bene esse*, upon a Writ of *Habeas Corpus*, if the Plaintiff shall not challenge such Bail for the insufficiency thereof, within twenty eight days after putting in thereof, then such Bail shall be filed by the Defendants Attorney, within four days next after the end of the aforesaid twenty eight days, upon pain that every Attorney making default either in not giving notice, as aforesaid,

said, or in not filing the several Writs or any of them, in form aforesaid, shall forfeit and pay to the Box of this Court, for his first Offence, the Sum of five shillings, and for his second Offence shall be put out of the Roll of Attornies of this Court.

And it is farther Ordered, to the intent that the aforesaid Bails may be duly filed, that the Clerks of the Justices of this Court, in whose Hands Bails so taken *de bene esse*, shall remain; shall within six days next after the end of every Term, give notice in writing to the Secondary of this Court, of all the Bails of the Term preceding so put in, and in their Hands then remaining, together with the Names of the Attornies who put in those Bails, and the day of the putting in of the same.

And by Rule of Court, made in *Trinity* Term, in the two and twentieth year of the Reign of King *Charles* the second, touching putting in Bail and declaring upon the same; It is Ordered by the Court, that no Defendant, who shall be arrested by virtue of any Process issuing out of this Court, shall be compelled to put in Bail, for a greater sum than is expressed in such Process.

And it is farther Ordered, That no Plaintiff shall declare against any Defendant upon any Bail by him put in, in any one Declaration, for a greater Sum than is expressed in the Process upon which the Defendant shall be Arrested.

Also, by Rule of Court, made in *Michaelmas* Term, in the first year of the Reign of their present Majesties King *William* and

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Queen *Mary*, touching filing of Bail to Warrant Judgments confessed by Warrant of Attorney; It is Ordered by the Court, That for every Judgment confessed by Warrant of Attorney, Bail shall be filed for the Defendant to Warrant such Judgment, or in default thereof, the Attorney who ought to file such Bail, shall forfeit and pay ten shillings to the Box of the Court, for every such Bail unfiled, and for every other common Bail that ought to be filed, and shall not be filed, the Attorney for the Defendant shall forfeit and pay to the Box of the Court ten shilling. And the said respective Attornies shall be punished as to the Justices of this Court shall seem reasonable.

And lastly, by the Statute of 4 *W. and M. cap. 4.* Intituled, An Act for taking special Bails in the Country upon Suits depending in this Court, &c. reciting, That for the greater ease and benefit of all persons whatsoever, in taking the Recognizances of special Bails, upon all Actions and Suits depending, or to be depending in this Court; It is Enacted, That the Chief Justice, and other the Justices of this Court, for the time being, or any two of them, whereof the Chief Justice for the time being to be one for this Court, shall or may by one or more Commission or Commissions under the Seal of this Court, from time to time as need shall require, Impower such and so many persons, other than common Attornies and Solicitors, as they shall think fit and necessary, throughout *England and Wales*, and the
Town

Town of *Berwick* upon *Tweed*, to take and receive all and every such Recognizance and Recognizances of Bail or Bails, as any person or persons shall be willing or desirous to acknowledge or make before any of the persons so impowred in any Action or Suit depending, or hereafter to be depending in this Court, in such manner and form, and by such Recognizance or Bail-piece, as the Justices of this Court have used to take the same.

Which said Recognizance, or Recognizances of Bail or Bail-piece so taken as aforesaid, shall be transmitted to some or one of the Justices of this Court, who, upon Affidavit made of the due taking of the Recognizance of such Bail or Bail-piece, by some credible person present at the taking thereof, such Justice shall receive the same, upon payment of such Fees as have been usually received for the taking of special Bails by the Justices Clerks, and other the Officers of this Court.

Which Recognizance of Bail or Bail-piece, so taken and transmitted shall be of the like effect, as if the same were taken *de bene esse*, before any of the said Justices.

For the taking of every of which Recognizance or Recognizances of Bail or Bail-piece, the person or persons so empowred, shall receive only the sum or fee of 2 s. and no more.

And the Justices of this Court shall make such Rules and Orders for the justifying such Bails, and making the same absolute, as to them shall seem meet, so as the Cog-

nisor or Cognisors of such Bail or Bails be not compelled to appear in person in this Court to justify him or themselves, but the same may and is directed by the said Act to be determined by Affidavit or Affidavits duly taken before the said Commissioners, who are impowred by the said Act, and required to take the same, and also to examine the Sureties upon Oath, touching the Value of their respective Estates, unless the Cognisor or Cognisees of such respective Bail do live within the Cities of *London* or *Westminster*, or within ten Miles thereof.

And that every Judge of Assize in his Circuit may take such Recognizance of Bails, as any person shall acknowledge before him, which being transmitted, as aforesaid, shall (without Oath) be received upon payment of the usual Fees.

And that any person who shall (before any person impowred by this Act to take Bails) represent or personate any other person (whereby the person so represented may be liable to the payment of any Sum or Sums of Money, for Debt or Damages, to be recovered in the same Suit or Action wherein such person is represented, as if he had really acknowledged and entred into the same,) shall be adjudged, esteemed and taken to be a Felon, and suffer the pains of Death, and incurr such Forfeitures as Felons in other Cases Convicted or Attainted, do by the Law of *England* lose and forfeit.

Rules of Court touching Prisoners.

By the General Rules and Orders of Court, made in *Michaelmas* Term, 1654. It is Ordered, That no Writ of *Habeas Corpus cum causa ad faciendum & recipiendum* directed to any Sheriff, other than of *London* and *Middlesex*, ought to be returnable *immediate*, or in the Vacation time, but at a day certain in Court in the Term, unless it be to deliver a Prisoner over to Prison in discharge of his Bail.

But if such Writ of *Habeas Corpus cum causa, &c.* be directed either to the Sheriff of *London* or *Middlesex*, it may be granted in Term time, or in the Vacation, returnable *immediate*, and of such *Habeas Corpus* returnable *immediate*, the Sheriff ought to make his Return the same day the Writ is delivered unto him, and must bring the Prisoners Body immediately, as is required by the Writ, without permitting him to wander abroad by colour or pretence thereof.

In like manner where an *Habeas Corpus* is directed to a Sheriff, Marshal of this Court, or other Gaoler, the Prisoner is to be brought in custody, according to the Writ, at the day limited, without suffering the Party to wander abroad in the mean time, under pretence of such Writ.

Also, an *Habeas Corpus ad respondendum* may be granted to the Marshal of this Court, or the Keeper of an Inferior Prison of any Liberty or Franchise, returnable at a day certain in Court, and shall be as good cause to

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detain a Prisoner, as a *Capias ad respondendum* directed to the Sheriff.

And so shall a Writ of *Capias* as *satisfaciendum* be; but the Attorney that sues it out must take care to indorse the number Roll of the Judgment thereupon, and then it shall be as good cause of detainer, as the Writ of *Capias ad respondendum*, above-mentioned.

So if a Prisoner be returned charged with Process out of the Court of *Common Pleas* or *Exchequer*, upon an *Habeas Corpus cum causa*, though returnable at a day to come, by the Practice of this Court, the Prisoner may be committed with those Causes.

But if the Party upon an *Habeas Corpus*, or *Cepi Corpus* be returned *in custodia*, and Bailable (where special Bail is required) the Bail is not to be taken absolutely, without consent of the Plaintiff or his Attorney.

And if Bail be taken *de bene esse*, the Prisoner ought not to be discharged until the Bail be assented to, or the Plaintiff be overruled in Court to accept the same upon examination.

But if a Prisoner committed to the custody of the Marshal, by Process out of this Court, gives Rules to declare (so as the Plaintiff or his Attorney hath notice, and Oath be made thereof) and the Plaintiff doth not declare thereupon, within two Terms inclusive, from the time of his commitment of the Defendant, the Prisoner shall be discharged at the end of the second Term upon common Bail.

And so is the Practice of this Court in all points

points touching the commitment of the Defendant to any other Prison, by Process out of this Court, upon giving Rules and Notice, and making Oath as aforesaid.

Likewise by the Practice of this Court, (grounded upon the Statute of 23 Hen. 6.) no Prisoner taken upon a *Capias* in Process ought to be discharged until he hath given Bond to the Sheriff to appear, unless the Plaintiff or his Attorney shall consent to take an Appearance without Bail, and in such case the Warrant of Attorney must appear to be subscribed or accepted by the Defendants Attorney, which Warrant shall in no wise be revoked.

And the Court hath used to grant an Attachment against the Bailiff offending herein, or against the Attorney refusing to appear, or procure an Appearance, having so subscribed or accepted such Warrant, as aforesaid.

And by Rule of Court made in *Easter* Term, in the sixteenth year of the Reign of King *Charles* the second, It is Ordered by the Court (touching giving Notice upon discharging of Prisoners for want of prosecution within three Terms) That every Attorney of this Court, who shall discharge any Prisoner, charged with any Action depending here in Court, out of Prison, for want of prosecution within three Terms, shall give notice to the Plaintiff in the said Action, or his Attorney, to appear before some Justice of this Court, to shew cause why such Prisoner ought not to be discharged for want of prosecution, before that he shall

shall procure any Warrant under the hand of any Justice of this Court, for the discharge of such Prisoner.

And if the Plaintiff in the said Action, or his Attorney (upon such notice to them or either of them thereof given) shall not appear to shew cause to the contrary, then upon Oath to be made of such Notice, such Prisoner against whom no prosecution hath been made, within three Terms then next preceding, shall be discharged out of Prison, at the Peril of the Attorney who shall procure such Prisoner in form aforesaid to be discharged.

Likewise by Rule of Court, made on *Munday* next after the Morrow of the *Ascension* of our Lord, in the thirty fourth year of the Reign of King *Charles* the second, touching Prisoners, It is Ordered by the Court, That the Clerk of the Rules of this Court, for the time being, shall *de die in diem* within the Term, at the request of any Attorney of this Court, enter a Rule of Court enjoining the Marshal of this Court, to bring here into this Court the Body of any Prisoner before that time committed to him, within three days next after notice of such Rule to him to be given, so that such Prisoner may be committed in execution, or charged with some Action at the Suit of some Plaintiff.

And that the said Marshal shall within the time aforesaid, give a Note under his Hand in Writing, testifying and acknowledging such Prisoner to be in actual custody, or shew cause to the contrary thereof, within

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within the time aforesaid, upon notice to be given to the Attorney for the Plaintiff, by the said Marshal.

Lastly, by the Statute of 4 and 5 W. and M. Cap. 21. Intituled, *An Act for delivering Declarations to Prisoners*; Reciting, "That Whereas by the course of practice in the respective Courts of Record at *Westminster*, after the Plaintiff or Plaintiffs in any Writ issued out of any of the said Courts, have been at great charge to Arrest the Defendant or Defendants upon such Writ, and the Defendant or Defendants for want of sufficient Bail, are often committed to Gaol, and unless the Plaintiff or Plaintiffs shall before the end of two Terms next after such Arrest, cause such Defendant or Defendants by Writ of *Habeas Corpus*, to be removed, to be charged in the said respective Courts, with Declarations of the cause of such Action or Actions, such Prisoner or Prisoners are upon a common Bail or Appearance by Attorney, discharged from their Imprisonment, to the great prejudice of the Plaintiffs.

"For remedy whereof, It is Enacted, That if at any time after the twenty fifth day of *March*, one thousand six hundred ninety three, any Defendant or Defendants be taken or charged in custody, at the suit of any person or persons, upon any Writ or Writs, out of any of the said Courts at *Westminster*, and imprisoned or detained in Prison for want of Sureties for their Appearance to the same; the Plaintiff or Plaintiffs in such Writ or Writs shall and may

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" may before the end of the next Term, after
 " such Writ or Process shall be returnable,
 " declare against such Prisoner or Prisoners
 " in the respective Courts out of which the
 " Writ or Writs shall issue, whereupon the
 " said Prisoner or Prisoners shall be taken
 " and Imprisoned or charged in custody,
 " and shall and may cause a true Copy there-
 " of to be delivered to the Prisoner or Prison-
 " ers, or to the Gaoler or Keeper of the Prison,
 " or Gaoler in whose custody such Prisoner
 " shall be or remain.

" To which Declaration or Declarations
 " the said Prisoner or Prisoners shall appear
 " and plead; and if such Prisoner or Prison-
 " ers shall not appear and plead to the
 " same, the Plaintiff or Plaintiffs in such
 " cases shall have Judgment in such manner
 " as if the Prisoner or Prisoners had appear-
 " ed in the said respective Courts, and refu-
 " sed to answer or plead to the said Declara-
 " tion.

" And that in all Declarations against
 " any Prisoner or Prisoners, detained in Pri-
 " son by virtue of any Writ or Process issu-
 " ed or to be issued out of the Court of
 " *Kings Bench*, it shall be alledged in custody
 " of what Sheriff, Bailiff or Steward of any
 " Franchise, or other person having the Re-
 " turn or Execution of Writs, such Prison-
 " er or Prisoners shall be at the time of
 " such Declaration, by virtue of the Process
 " of the said Court, at the Suit of the Plain-
 " tiffs; Which Allegation shall be as good
 " and effectual to all intents and purposes,
 " as if such Prisoner or Prisoners were in
 " the

Court of Kings Bench.

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"the custody of the Marshal of the *Marshal-*
" *sea* of our Sovereign Lord and Lady the
" King and Queen.

Of Appearances.

By the Rules of this Court, made in *Michaelmas* Term, one thousand six hundred fifty four, If an Attorney of this Court accept a Warrant, or subscribe a Process, Declaration, or Warrant to appear, he shall be compelled to cause an Appearance, or be liable to an Attachment, or be put out of the Roll, as the case requires, and the Party shall not be received to countermand such Appearance after his Retainer.

Likewise no Person without Rule of Court, Order of a Judge, or of the Chief Clerk or Secondary of this Court, and notice to the Adverse Party, or his Attorney, shall change or shift his Attorney, and that such Attorney newly coming in shall take notice at his peril, of the Rules whereunto the former Attorney was liable, had he continued.

Also a Retainer of an Attorney of the *Common Pleas*, by an Attorney of this Court, and *e converso*, shall be a sufficient excuse to the Attorney so retained, acting according to such Retainer; and the Attorney so retaining, without VVarrant from the Party, shall be liable to the punishment.

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Of the Practice of the

Of Imparlanes and Non-Suits.

By the said General Rules, made in *Michaelmas* Term, one thousand six hundred fifty four, It is declared, That the Plaintiff hath liberty by Order of Court to Enter his Imparlance in special Actions, the ensuing Term after he hath declared, Entering the same of the first Term with an *Incipitur*, according to the Practice of inferior Courts.

And although all other Imparlanes are Ordered to be duly Entred before any Issues, Demurrers or Judgments be Entred thereupon, yet now it is seldom performed, out of the remissness of those who should exact the performance thereof from the Clerks of the Court.

Also, if a Defendant appear the first Term, and gives no Rules to declare, the Defendants Attorney may the second Term be compelled to accept a Declaration with an Imparlance, and the Declaration may be Entred as of that Term, with an Imparlance over to the next Term, or in the first Term with an *Incipitur*, as before, as the Case shall require.

But if the Plaintiff declare not the second Term, though the Defendant give no Rules, yet a Non-suit may be Entred at the end of the second Term, upon a Continuance over by him, by *dies datus*, but not the third Term, or after.

Upon a meer real Action, an Imparlance shall be of course.

But

But in Ejectment or any other personal Action, if the Defendant do appear upon the first Return of *Hillary* or *Trinity* Term, there can be no Imparance without consent or special Rule of Court.

Nor in Causes laid out of *London* or *Middlesex*, if the Appearance be before *Craftinum Ascensionis*, or the last Return of any other Term, the Defendant shall have no Imparance without consent, or special Rule of Court, but shall plead as of that Term within fourteen days after the end of the Term, upon Rules given to Answer.

But if the Appearance be of *Craftinum Ascensionis*, or the last Return, then the Defendant shall have an Imparance of course.

So if a Writ be returnable *Quinque Paschæ*, or the last Return of any Term, the Defendant giving Rules, and calling for a Declaration, if it be not delivered four days before the *Effcin* day of the ensuing Term, or more, a Non-suit shall be Entred.

Of Discontinuance.

By the course of proceedings agreed upon by the ancient Clerks of this Court, the second of *April*, 1669. It is declared to be the practice of the Court, That no Plaintiff can discontinue his Action after Demurrer joyned and Entred, or after a general or special Verdict found, or after a Writ of Inquiry executed, without leave of the Court, *Course of Proceedings* Sect. 9.

Of

Of the Practice of the

Of Waging of Law.

And by the said *Course of Proceedings*, Sect. 19. It appears, That no Defendant can be admitted to Wage Law *instante* after Imparance, but before Imparance he may, and then the Plaintiff cannot be Non-suited, if the Defendant perfect his Law.

But if the Defendant doth Wage his Law after Imparance, the Plaintiff may be Non-suited.

Of Affidavits.

By Rule of Court, made in the fifteenth year of the Reign of King *Charles* the second, It is Ordered, That the true place of Habitation, and true addition of every person that makes Affidavit in this Court shall be inserted in such his Affidavit.

Touching Error.

By Rule of Court made in *Hillary* Term, in the _____ year the Reign of King *Charles* the second, It is Ordered, That a former Rule made in *Michaelmas* Term, then last past, for delivering Copies of Errors and Records thereupon to the Justices of the *Common Pleas*, and the Barons of the *Exchequer*, shall be discharged.

And that for the future no Copy of Error and Record thereupon, shall be delivered to the said Justices or Barons before that the Attorney for the Plaintiff, upon the Writ
of

of Error shall give ten days notice to the Clerk of the Errors, in the *Exchequer* Chamber, That the Error in the Record shall be argued before the said Justices and Barons by Council on both sides.

And that the Attorney for the Plaintiff shall deliver four Copies to the Justices of the *Common Pleas*, and the Attorney for the Defendant shall deliver four other Copies to the Barons of the *Exchequer*, four days before the hearing of the Cause.

And by Rule of Court made in *Easter Term*, in the thiry sixth year of the Reign of King *Charles* the second, It is Ordered, That all Writs of Error returnable before the Justices of the *Common Pleas*, and Barons of the *Exchequer*, in the Court of the *Exchequer* Chamber, shall without delay be delivered to the Clerk of the Errors for the time being.

And than no person shall be obliged to forbear Prosecuting Execution by pretence of any such Writ of Error, before that the said Writ be delivered to the Clerk of the Errors.

And in cases where special Bail is required, unless the Plaintiff, upon such Writ of Error, shall within four days after the delivery thereof, put in Bail according to Law, the Defendant may proceed to Execution, notwithstanding such Writ of Error.

Of the Practice of the

Of Filing and Entering Warrants of Attorney upon Judgments.

By Rule of Court made on Fryday next after a Month of Easter, in the fourth year of the Reign of the late King James the second; Because it appeared to the Court, That by reason of the negligence of the Clerks and Attornies of this Court, in not Entering and Filing Warrants of Attorney upon Record, divers Judgments are Reversed, to the great damage of their Clients: It is Ordered, That every Clerk and Attorney of this Court, who for the future shall Enter any Cause upon Record, shall Enter at the beginning of every Cause so Entred, Warrants of Attorney for the Plaintiffs and Defendants in such Causes, othwise their Rolls shall not be filed nor received.

The Fees of this Court.

And first the Fees paid for the Writs and Process to the Officers of this Court.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
TO the Keeper of the Seal of the Bills of Middle- sex, for sealing a Bill of Mid- dlesex in Term time	00	00	06
For the same in the Vacation	00	00	10

To

l. s. d.

To the said Officer for the Seal of every *Alias*, *Pluries Distingas*, and *Habeas Corpus* upon a *Capi Corpus* return'd, whether it be in Term time or Vacation } 00 00 02

To the Kings Chief Clerk of this Court for signing every *Latitat* } 00 01 10

For signing every *Habeas Corpus cum causa*, *Cerciorari*, *Scire facias*, *Supersedeas*, *Procedendo*, *Elegit*, Writ of Restitution, *Habere facias possessionem*, and *Habere facias seisinam*, and Writ of Prohibition, for each } 00 01 08

And to the Secondary of the said Chief Clerk, for allowing every Writ of Error and *Audita Querela* } 00 01 00

To the Clerk of the Documents of this Court for the Copies of all such Writs as are in his custody, for every Sheet } 00 00 04

To the *Custos Brevium* of this Court, for every full Process of *Nisi prius*, *Mittimus*, or *Cerciorari* } 00 06 00

For every full Process on the Crown side } 00 06 08

For every Exemplification in Trespass } 00 10 00

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Exemplification } containing a large Skin	01	00	00
For the like on the Crown } side	02	00	00
For every Exemplification } in <i>Ejectione firmæ</i>	00	13	04
For Filing every Writ, be- } ing a <i>post diem</i>	00	00	04
For a <i>Post Terminum</i> at any } time after the first Week ended in the second Term	00	01	08
For search for every Judi- } cial and other Writ after ten years	00	01	04
For the Copy of every sheet } of every Writ between Party and Party	00	00	04
For the Copy of every Writ } on the Crown side, for every Sheet	00	00	08
For the Copy of every Writ } of Appeal, for every Sheet	00	00	08
For a File of an <i>Angl'</i> for } every Term after one	00	00	04
To the Clerks of the <i>Custos</i> } <i>Brevium</i> , for writing every <i>Ni-</i> <i>si prius</i> , <i>Mittimus</i> , or <i>Cerciorari</i> , being but one Process	00	01	06
And for every Process more } than one	00	01	00

For

Court of Kings Bench.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Process of <i>Nisi</i> } <i>prius</i> on the Crown side	00	01	08
For writing every Exemplifi- } cation in Trespass or Eject- } ment	00	03	04
For writing every large } skin Exemplified	00	06	08
For the like on the Crown side	00	13	04
To the Under Clerk of the } Inner Treasury of this Court, } for attending the Lords in Par- } liament upon a Writ of Error	00	10	00
For entring every Warrant } upon a Sheriffs Patent, or War- } rant upon a Writ or Appeal	00	00	04
For indorsing every Re- } turn on a Writ of <i>Cerciorari</i>	00	02	00
For attending the Chief Ju- } stice of this Court to sign the } same	00	03	04
For writing the first Pro- } cess returned upon a <i>Cerciorari</i>	00	01	06
For every other Process re- } turned thereupon	00	01	00
For discharging every Issue } returned by the Sheriff upon } a Writ of <i>Distringas</i> , &c.	00	02	00

Of the Practice of the

Fees due upon Writs of Error.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Chief Justice of this Court for carrying up of every Record to the Lords in Parliament	01	00	00
To the Clerk of the Errors for the same	01	00	00
To the Clerk of the Errors of this Court, upon the Allowance of every Writ of Error returnable in the <i>Exchequer-Chamber</i> , for the <i>Supersedeas</i> thereupon, and toward Transcribing the first Process	00	02	00
But if the Writ of Error be <i>Tam in redditione Judicii, quam in Adjudicatione Executionis</i> , or returnable in Parliament	00	04	00
To the said Clerk upon the acknowledgment, and for Entering every Recognizance of Bail upon a Writ of Error	00	19	10
For the Transcribing every Record for every Process except the first	00	00	08
For signing every Non-suit	00	05	00
For a Rule to certifie a Record	00	01	00

Fees

Fees due to the Filizers of this Court.

The Filizers Fees for the Proceſs made by them, are (*inter alia*) as followeth.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For Every <i>Capias</i> , <i>Alias</i> , <i>Pluries</i> , <i>Exigent</i> , Proclamation, and <i>Distingas</i> in Trespaſs	00	00	06
For every <i>Capias</i> , <i>Alias</i> , <i>Pluries</i> , <i>Exigent</i> and Proclamation in Replevin.	00	00	06
For every <i>Pone</i> and <i>Teſtatum</i> in Replevin	00	00	06
For every <i>Superſedeas</i> upon any of the meſn Proceſs above-mentioned	00	02	00
For every <i>Capias</i> , <i>Alias</i> , <i>Pluries</i> , <i>Exigent</i> , and Proclamation, or <i>Teſtatum</i> in Actions upon the Caſe, Ejectments upon a Statute-Staple, and ſuch ſpecial Writs, and for every <i>Distingas</i> thereupon	00	01	00
For every name in every <i>Capias</i> , <i>Alias</i> , and <i>Pluries</i> in an Appeal of <i>Mayhem</i>	00	01	00
For every Name in every <i>Capias</i> , <i>Alias</i> , and <i>Pluries</i> in an Appeal of Murder	00	02	00
For every Proclamation in any Appeal	00	02	00

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every general <i>Capias Ut-lagat.</i> and <i>Deliberatur de Recordo</i> }	00	00	10
For every special <i>Capias Ut-lagat.</i> and <i>Deliberatur de Recordo</i> }	00	02	04
For every Re-summons, <i>Habeas Corpus</i> , and <i>Distringas</i> in Attaint before Appearance }	00	02	04
For every <i>Deliberatur de Recordo</i> }	00	00	04
For every Writ of <i>Withernam</i> , <i>Secunda deliberatione</i> , and <i>Returno habendo</i> before Avowry }	00	02	00
For every <i>Venire facias</i>	00	00	06
For every <i>Distringas Fur</i> , <i>Deliberatur de Recordo</i> , or other Writ of <i>Nisi prius</i> }	00	10	02
For every Subpœna upon Issue by Original }	00	02	00
For the Copy of every Writ of Attaint before Appearance, for every Sheet }	00	00	08
For every Writ of <i>Allocatus</i> in Actions upon the Case }	00	02	00
For every Writ of <i>Allocatus</i> in Actions of Trespass }	00	01	00
For every Writ of Inquiry of Damages, not exceeding three Sheets }	00	02	00
If longer, for every Sheet (and so in all other Writs) }	00	00	04

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Writ of <i>Scire facias</i> , <i>Elegit</i> , <i>Exigent</i>	00	02	00
For every Writ of <i>Capias ad satisfaciendum</i> , or <i>Fieri facias</i>	00	01	00
For every <i>Ducens tecum</i> , <i>Distringas nuper Uic</i> , or <i>Distringas Ballivum Libertatis</i>	00	02	00
For every <i>Distringas Furatores</i> upon the Statute of Hue and Cry for Robbery against the Hundred	00	05	00
For every <i>Testatum distringas</i> , <i>Testatum Pone</i> , <i>Testatum Capias</i> in <i>Withernam</i> , for every Sheet	00	00	04
For continuing every Process for every Term	00	00	04
For Ingrossing a special Writ of Outlawry, with the Inquisition thereupon, to be sent into the <i>Exchequer</i>	00	01	00
For Entering all Reversals of Outlawries for every sheet	00	00	04
And Note, That if more than four Defendants be put into any Writ or Process, unless Husband and Wife, the Filer will take double Fees	double.		
And if more than five, except as above, he will take as for three Writs	treble.		
<i>Et sic de cæteris.</i>			

Of the Practice of the

Fees due to the Deputy Marshal of this Court, and the Clerk of the Papers of the Kings Bench Prison.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the allowance of every Writ of <i>Habeas Corpus cum causa</i> , or other Writ against any Prisoner to charge him in custody, to the Deputy Marshal, two Shillings, and to the said Clerk of the Papers, four pence	00	02	04
For the Return of every Writ of <i>Habeas Corpus cum causa</i> , and Writ of Attachment out of the <i>Chancery</i> to the said Clerk of the Papers	00	03	04
To the Deputy Marshal for commitment of a Prisoner either in Court or at a Judges Chamber	00	02	00
To the said Clerk of the Papers for the same	00	01	00
To the Deputy Marshal for the first Cause for any Prisoner turned over to the <i>Fleet</i> by <i>Habeas Corpus</i>	00	04	00
To the said Clerk of the Papers for the same	00	02	00
And for every other Cause	00	02	00

Of

Court of Kings Bench.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
Of which the Deputy Mar- shal hath	} 00	01	00
And the said Clerk of the Papers receives also			

Fees due to the Sealer of Writs and Proceſs of this Court.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Writ ſealed with the Seal of this Court, unleſs it be at the Suit of a Clerk of the Office, Attorney, Filizer, or other Officer of this Court, ha- ving Priviledge	} 00	00	07

For the Seal of every Writ at the Suit of ſuch priviledged Perſon	} 00	00	01

For the Seal of every Out- lawry	} 00	00	01

For the Seal of every Ex- emplification	} 00	02	06

Fees of the Crown Office due to the Maſter and Clerks there, for Writs and other Proceſs rela- ting to Pleas of the Crown.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For Entering every Writ of Error in Felony	} 00	02	00

Whereof to the Clerk for Entering the ſame	} 00	00	02

And to the Secondary	00	00	02
			For

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For Entering the Indictment	00	06	08
VWhereof to the Clerk } for Entering the same	00	06	00
And for every Error assigned	00	02	00
VWhereof to the Clerk	00	00	02
And to the Secondary	00	00	02
For Entering the Exigent } and Return	00	02	00
Of which the Secondary } and the Clerk hath each 2 <i>d.</i>	00	00	04
For every Bail upon a } VVrit of Error	00	04	08
Of which the Master of the } Office hath	00	01	08
And there is paid to the Box	00	01	00
And the Marshal, Seconda- } ry and Cryer have amongst } them	00	01	00
And the Clerk hath for ma- } king the Bail	00	00	04
And to the Clerk retain- } ed in the Cause	00	01	08
For Entering up Judgment } upon the Reversal of any Out- } lawry in Felony	00	06	08
For every <i>Venire facias</i> upon } a Plea of <i>Not Guilty</i> , where } any Person is Indicted for any } Offence, either Criminal, or } otherwise	00	02	00

Of

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Of which the Masters Fee is	00	01	08
And the Secondary has for } signing the VVrit	00	00	01
And the Clerk for making } the <i>Venire</i>	00	00	03
For the Enrolment of every VVrit of <i>Quo Warranto</i> , for each Roll	00	13	04
For the Exemplification of every <i>Quo Warranto</i> the same Term it is Entred to the Clerk of the Crown	00	13	04
But if it be Exemplified af- ter Term in which it is Entred, then the <i>Custos Brevium</i> of this Court (and not the Clerk of the Crown) claims the Fee of	00	13	04
Out of every Mark of which Fee the Clerk who Enters the <i>Quo Warranto</i> receives	00	01	00
For the Copy of every <i>Quo</i> <i>Warranto</i>	00	06	08
For the Inrollment of every } VVrit de <i>Executione capienda</i>	00	02	04
VVhereof the Master hath	00	02	00
And the Secondary hath	00	00	04
Also the Attorney in the } Cause hath for his Fee	00	03	04

For

	l.	s.	d.
For every <i>Capias</i> sued out upon VVrits <i>de Excommunicato capiendo</i> to the Master of the Office	00	02	06

And the Clerk takes for his Fee, in respect of the length of the VVrit	00	03	04
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To the Master for every VVrit <i>de Pace</i> , or <i>de bona Gestura</i> 1 s. 8 d. To the Secondary 1 d. To the Clerk of the Office 6 d. To him that makes the VVrit and VVarrant 8 d. and to the Clerk in the Cause 1 s. 8. In all	00	04	07
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For every <i>Superfedeas de Pace</i> or <i>de bona Gestura</i> , To the Master for the Recognizance 1 s. 8 d. To the Secondary 4 d. To the Master for the <i>Superfedeas</i> 1 s. 8 d. To him that makes the VVrit and Recognizance 7 d. To the Secondary for signing the VVrit 1 d. To the Clerk in the Cause 1 s. 8 d. In all	00	06	00
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For every Attachment of contempt to the Master 1 s. 8 d. To the Secondary 1 d. To the Clerk that makes the VVrit for writing the same, and the VVarrant 7 d. And to the Clerk in the Cause 1 s. 8 d. In all	00	04	00
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For

l. s. d.

For every *Cerciorari* to remove any Indictment, Information, Presentment, or other Record from any Court of Sessions of the Peace, or Corporation, To the Master 1 s. 8 d. To the Secondary 1 d. To the Clerk for making the VVrit and VVarrant 7 d. In all

>00 04 00

For every *Cerciorari* to remove any Indictment of Felony, To the Master 1 s. 8 d. To the Secondary 1 d. To the Clerk for writing the VVrit and VVarrant 7 d. And to the Attorney in the Cause 3 s. 4 d. In all

>00 07 04

For every *Habeas Corpus* to remove a Prisoner, with his Causes of commitment from any County Gaol. To the Master 1 s. 8 d. To the Secondary 1 d. And to the Under Clerk for writing the VVrit and VVarant 7 d. In all for every Name

>00 04 00

For every *Superfedeas de Pace* out of *Chancery*, to be allowed in this Court. To the Master 2 s. To the Secondary 5 d. To the Clerk in the Cause 1 s. 8 d. In all

>00 04 01

For

l. s. d.

For every *Capias Utlagatum* }
 specially sued out against any }
 person. To the Master 1 s. }
 8 d. To the Secondary 1 d. } 00 04 00
 To the Clerk in the Cause 1 s. }
 8 d. And to the under Clerk }
 for making the VVrit and }
 VVarrant 7 d. In all }

For every *Procedendo* upon a }
Cerciorari or *Habeas Corpus* (the }
 same Fees divided as next }
 above.) }

For every *Ducens tecum licet* }
Languidus, the like Fees divided }
 as above }

For every VVrit *de Gestura* }
 & *Fama* (the same Fees and so }
 divided as *Cerciorari*.) }

For every *Supersedeas* for any }
 Person in Exigent upon any }
 Indictment for Felony, To the }
 Master 1 s. 8 d. To the Se- }
 condary 1 d. And to him that }
 makes the VVrit 3 d. In all }

For every Writ of Restituti- }
 on, be it for Goods or Chattels, }
 Lands or Tenements, in any }
 Case Criminal, or otherwise }

Of which he that makes the }
 VVrit }

For

For every *Superfedeas* upon
a former Restitution, whereby
the Lands or Tenements,
Goods or Chattels are to be
Re-seized for insufficiency of
the Indictment. To the Ma-
ster 12 s. 4 d. And to him
that makes the VVrit 1 s. In
all

For every VVrit for seising
any Liberty or Franchise, the
like Fee, divided as next above

For every *Mittimus* of a Re-
cord transcribed into the Ex-
chequer. To the Master 6 s. 2 d.
And to the Clerk for making
the VVrit 6 d. In all

But the Transcript is paid for according to
the length of the Record.

For every *Capias ad satisfaci-*
endum, *Fieri Facias*, *Elegit*, or
other VVrit of Execution, the
same Fee as above for a *Mitti-*
mus, and so divided

The like for every VVrit *de*
non Molestando granted upon a
Pardon pleaded, or Outlawry
Reversed

For every Writ of *Scire facias*
fued out upon breach of the
Peace, or good Behaviour, as
next above, and so divided

M

To

Of the Practice of the

l. s. d.

To the Clerk for drawing
the Suggestion thereupon 2 s. }
And to the Attorney in the } 00 05 04
Cause 3 s. 4 d. In all

For every *Scire facias* in Fe-
lony. To the Master 6 s. 2 d. }
and to the Clerk for making } 00 06 08
the VVrit 6 d. In all

For every *Subpœna ad Testifi-*
candum, or Attachment upon
any Information, or other
common VVrit. To the Ma-
ster 1 s. 6 d. To the Seconda-
ry 1 d. To the Clerk for ma-
king the VVrit and VVarrant
7 d. And to the Clerk in the
Cause 1 s. 8 d. In all } 00 04 00

For every *Venire facias de*
novo upon a Traverse out of
Chancery. To the Master 6 s. }
2 d. And to him that makes } 00 06 08
the Writ 6 d. In all

For every *Distingas* upon a
Plea of *Non Cul.* upon any
Indictment or Information.
To the Master 1 s. 8 d. To the
Secondary 1 d. To the Clerk
for making the VVrit 3 d. And
for a *deliberatur de Recordo* 4 d. }
In all } 00 03 04

To

l. s. d.

To the Attorney that attends
any Judge at his Chamber for
the granting any VVrit, or for
discharging any Defaulter co-
ming in upon the *Exigent*, or
that hath continued long in
Procefs } 00 03 04

But in a *Quo Warranto*, Tra-
verse of Lands, or VVrit of
Error in Felony, he hath } 00 06 08

To the Attorney upon every
VVrit of Error upon an Out-
lawry, or Judgment, if the
Party be discharged the same
Term the VVrit of Error is
brought } 00 06 08

For the discharge of any
Procefs against the Defendant } 00 00 04

For every VVrit of *Melius*
Inquirendum after the Death of
a *Felo de se*, or *per Infortunium*
interfect } 00 04 00

*The Kings Chief Clerks Fees for Entries in this
Court.*

For Signing and Entring
Judgment in Debt by default } 00 03 08

For Entring Judgment upon
Demurrer, or special Verdict } 00 02 06

For every Satisfaction ac-
knowledged } 00 02 06

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Commitment in Execution	} 00	03	00
For every whole Roll of Entries of Issues, Demurrers, &c.	} 00	06	08
For every special Bail upon a <i>Habeas Corpus</i>	} 00	04	10
For every Common Bail	00	01	02
For Admitting any Clerk into his Office, his Fee is	} 01	01	06

The Kings Chief Clerks Deputy, (called the Secondary of this Court) his Fee.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For allowing every Writ of Error and <i>Audita Querela</i>	} 00	01	00
For signing every Bail in Court	} 00	01	00
For signing Costs upon any Paper Rule	} 00	01	00
For marking the Roll, when Judgment is given by the Court, upon Demurrers, Special Verdict, or Writ of Error	} 00	01	00
For the Docket of every Clerk of the Office	} 00	01	00
For turning over every Prisoner in Court	} 00	01	00

For

Court of Kings Bench.

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	l.	s.	d.
For acknowledging every Deed to be Inrolled in Court	} 00	01	00

For calling every Cause upon Trial and Wager of Law	} 00	02	00
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For his Share of the Fees out of Common Bails every Term	} 04	00	00
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For keeping every 100 l. brought into Court	} 01	00	00
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And so *pro Rata*, for every greater or lesser Sum of Mony deposited in Court.

For swearing every Attorney in Court	} 01	01	06
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For Returning Juries to Try Causes at the Bar	} what each Party pleaseth to give.		
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Fees due to the Filizers of this Court for Entries of Declarations and Pleadings in Actions commenced by Original Writs.

	l.	s.	d.
For Entering of a Declaration in Trespass by Original	} 00	01	00

For Entry of the Plea of <i>Non culpabilis</i> thereupon	} 00	01	00
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For the Entry of every Declaration in Trespass upon the Case, or <i>Ejectione Firme</i> , not exceeding three sheets	} 00	02	00
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And for every sheet more	00	00	08
M 3			For

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every special Impar-			
lance, or <i>Lilo Salvis</i>	3	00	02 00
And for a general Impar-			
lance	3	00	00 04
For Entering every special			
Bail or Appearance	3	00	02 00
And for a general Appear-			
ance	3	00	01 00
For the Inrolling every In-			
denture <i>per sheet</i>	3	00	00 04
For the Entry of every spe-			
cial Outlawry, with the In-			
quisition thereupon, to be sent	3	00	08 00
into the <i>Exchequer</i>			
For the Entry of any Re-			
versal of an Outlawry, for	3	00	00 04
every sheet			
For every Copy, Search,			
Number Roll, and for giving	3	00	00 04
any Rule			

Fees due to the Clerks of the Papers of this Court.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For Copying every Special			
Plea, Replication, Rejeinder,			
or any other part of Pleading,	3	00	00 04
for every sheet			

For

	l.	s.	d.
For making the Paper Book of any Issue or Demurrer, for every sheet	00	00	08

For making the Bill of the Issue for every Judge upon a Trial at Bar	00	01	08
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For the Entry of every Tri- al at Bar	00	02	00
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For the Entry into their Book of every Cause to hear Council of both sides	00	01	00
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For reading the Record and the Evidence in any Trial at Bar, they receive from both Parties, according to the length of the Trial, and the number of the Evidences	Prout.
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Fees due to the Clerk of the Declarations of this Court.

	l.	s.	d.
For every Clerks, Attor- nies, or Filizers searching the Books and Files, and taking out Copies <i>Gratis</i> , he receives of each of them every Term	00	02	00

For Filing every Declaration after the sixth day of the second Term	00	00	04
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Of the Practice of the

	l.	s.	d.
For the search of every private person or Attorney of any other Court, for every Term	00	00	04

For every Copy of any Declaration made for any private person or Attorney of any other Court, his Fee for every sheet is	00	00	04
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For a Certificate in any Action of the filing or not filing any Declaration thereupon	00	00	04
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For carrying a file of Declarations into Court, and his Attendance thereupon	00	03	04
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For every file brought to the Secondary to make a disconnuance	00	01	00
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Fees due to the Clerk of the Rules of this Court.

	l.	s.	d.
For Drawing and Entring every Rule made in Court	00	00	08

For every Order of Affise made a Rule of Court	00	01	00
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For every Rule by consent	00	01	00
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For

l. s. d.

For the Admission of every
Infant to prosecute or defend
his Suit by *Prochein Amy* or
Gardian } 00 01 00

For the Copy of every Affi-
davit, containing not above
three Sheets } 00 01 00

For every Sheet more } 00 00 04

For Entring every Rule to
Plead, Reply, Rejoin, or join
in Demurrer, &c. } 00 00 04

For every Rule upon a *Pos-
tea*, Writ of Inquiry, *Scire
Facias*, *Venire Facias* by Provi-
so, *Retorn' Habend' Cerciorari*,
Procedendo, &c. } 00 00 04

For every Rule to Amerce
any Sheriff } 00 00 04

For every day Rule for any
Prisoner signed by one of the
Judges } 00 00 08

For the Copy of every Rule
in the Term until the Conti-
nuance day } 00 00 04

But after the Continuance
day, for the Copy of every such
Rule } 00 00 08

For

For marking the Evidence
in Court, and taking the
charge of them upon Trials
at Bar, according to the num-
ber of the Evidence, and
length of the Trial } *Prout.*

*Fees due to the Clerk of the Common Bails and
Postea's in this Court.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Post Terminum Bail	00	00	04

For every Deliberatur de Re- cordo of every Postea by him made	00	00	04
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*Fees due to the Clerk of the Dockets of this
Court.*

For every Terms search in the Docket of Issues, Judg- ments, or other Entries made by an Attorney or other Per- son	00	00	04
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For every Terms Search of Files of Writ in his custody	00	00	04
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For the Copies of Writs and special Bails in his custody per sheet	00	00	04
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For

l. s. d.

For the making and copying
a Docket of *Committiturs* for
the Marshal of this Court eve- } 00 11 00
ry Term

*Fees due to the Custos Brevium of this Court
and his Clerks, for making up Records and Ex-
emplifying the same, &c.*

For every Record of *Nisi prius* in a short Action of
Trespas } 00 04 06

For every other Record how
short soever } 00 05 00

For every full Prefs of *Nisi prius*, *Mittimus* or *Cerciorari* } 00 06 00

For every *Nisi prius* on the
Crown side } 00 06 08

For every full Prefs there 00 06 08

For every *Nisi prius* in an
Indictment of Murther, for
every persons name pleading
to Issue } 00 06 08

For every Warrant of At-
torney in Murther } 00 01 00

For every Sheriffs Warrant 00 00 08

For every other Warrant of
Attorney } 00 00 04

For every search of a Roll
of ten Years standing } 00 00 06

But

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
But if above ten Years standing	00	03	04
For the search of every file of Declarations, or Bails above ten Years standing	00	01	04
For the Copy of every sheet between Party and Party	00	00	04
For the Copy of every sheet of any Deed Inrolled	00	00	08
For the Copy of every sheet on the Crown side	00	00	08
For the file of an <i>Angl'</i> every Term after one	00	00	04
For the Keys of the Treasury upon the search for any Record above ten Years standing	00	03	04
To the <i>Custos Brevium</i> his Clerks for writing every Prefs of Records of <i>Nisi prius</i>	00	01	06
And for every Prefs more	00	01	00
And for every Prefs on the Crown side	00	01	08

Fees

*Fees due to the Under Clerk to the Custos
Brevium of this Court of the Inner-Treasury.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the Copy of every Plea Roll between Party and Party of every Attorney of this Court, <i>per sheet</i>	00	00	02
But if the Copy be for an Attorney of any other Court, then he pays for the same by the sheet	00	00	04
For attending with the Keys of the Treasury, for the search of any Record above six Terms, and under ten Years standing	00	06	04
For sewing on every Rider to a Record	00	00	06
For attending alwayes <i>se-</i> <i>dente Curia</i>	<i>Prout.</i>		
For attending the High Court of Parliament upon a Writ of Error, or any other Extraordinary Business	00	10	00
For attending the Lords in Parliament upon any private Business	<i>Prout.</i>		
For Indorsing every Return upon a <i>Cerciorari</i>	00	02	00

For

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For his Attendance upon the Lord Chief Justice of this Court for his Hand to the same	00	03	04
For writing the first Prefs of the Return of a <i>Cerciorari</i>	00	01	06
For writing every other Prefs of the Return of a <i>Cer- ciorari</i>	00	01	00
For discharging every Issue returned by the Sheriff upon a <i>Distringas, &c.</i>	00	02	00
For Estreating such Issues	00	01	00
For the Copy of any Plead- ings or Entries, Records of <i>Nisi prius</i> , Writs or Judg- ments between Party and Par- ty <i>per sheet</i>	00	00	04
For the same on the Crown side	00	00	08
For the search in his Dock- et for any Attornies Entries, for every Term	00	00	04
For Entring every Sheriffs Warrant, or Warrant in Ap- peal	00	00	04
For amending any Record by Rule of Court, and for Co- pying and filing the Rule	00	01	00
For filing every parcel of Post Rolls after six Terms standing	00	03	04

For

Court of Kings Bench.

175

	l.	s.	d.
For every Trial at Bar upon an Issue Entred above six Terms past	}	00	02 06

For every Terms search of a File of Indictments	}	00	00 06
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Fees due to the Under Clerk (of the Outward Treasury) to the Custos Brevium of this Court.

For the Copy of every Plea Roll between Party and Par- ty, if for any Attorney of this Court, <i>per sheet</i>	}	00	00 02
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But if it be for any private person, or a Solicitor or Attor- ny of any other Court, he pays for the same <i>per sheet</i>	}	00	00 04
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For Attendance with the Keys of the Treasury for a search of the Records above six Terms past, and within ten Years	}	00	03 00
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For Attendance <i>sedente Cu- ria</i>	}	<i>Prout.</i>	
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For sewing on a Rider to any Record	}	00	00 06
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For the search of any Attor- nies Entries in this Court in his Dockets for every Term	}	00	00 04
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For

	l.	s.	d.
For attending the House of Lords in Parliament upon a Writ of Error, or any private Business	00	10	00

For attending the same Court upon any Publick Business	00	01	06
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For Amending a Roll by Rule of Court, and for copying and filing the Rule	00	03	04
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For filing every parcel of Post Rolls above six Terms past, to be paid by the Attorney that keeps them out	00	02	06
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For every Trial at Bar upon an Issue Entred above six Terms past	00	01	00
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The Cryer and Porters Fees of this Court, and first he claims as Cryer

For calling a Jury	00	00	04
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For swearing every Witness in Court	00	02	00
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For a Wager of Law	00	01	00
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For a Non-suit	00	01	00
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For calling a default of a Record	00	01	00
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For a <i>defecit de lege</i>	00	02	00
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For every <i>perfecit legem</i>	00	04	00
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For taking a privy Verdict	00	04	00
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For

Court of Kings Bench.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Argument in Law	00	02	00
For every Admission of an Infant to prosecute or defend any Suit by <i>Prochein Amy</i> , or Guardian	00	00	06
For every Bail taken at the Bar	00	02	00
For every Pardon pleaded in Court	00	02	00

And as Porter he claims the Fees following, viz.

For a Trial at Bar	00	05	00
For a Privy Verdict	00	02	00
For calling a Record	00	00	06
For calling a Default	00	00	06
For a Bail taken at the Bar	00	02	00
For a Bail taken in Court	00	00	06
For every Pardon pleaded	00	02	00
For summoning the Compurgators upon a Wager in Law	00	03	00
For discharge of every Refcous	00	00	04

He also receiveth more for

Summoning the Wager-men or Compurgators, where the Defendant wargeth his Law, or is ready to wage it	00	01	00
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N

Fees

Fees taken upon Trials of Nisi prius, at Guild Hall, London, before the Lord Chief Justice of this Court.

To the Associate for Entering the Cause in my Lords Book	L.	s.	d.
	00	11	08

To the Sheriffs of London for Returning the Writ of <i>Venire facias Furatores</i>	L.	s.	d.
	00	00	04

To the Sheriffs of London for Returning the Writ of <i>Distringas Furatores</i>	L.	s.	d.
	00	02	04

To the Clerk that reads the Records and Evidences	L.	s.	d.
	00	01	00

To the Associate	00	01	00
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For every Default	00	02	04
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For swearing every Witness	00	00	04
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To the Marshal	00	02	00
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To the Footcloth	00	01	00
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To the Green-Cloth	00	01	06
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To the Door-Keeper	00	01	00
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To the Hall-Keeper	00	01	00
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To the Jury-men	00	08	00
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To the Oyer-men, each	00	00	04
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To him that Summons and keeps the Jury	L.	s.	d.
	00	04	04

To the Bar-Keeper	00	01	00
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For Candles (if there be occasion)	L.	s.	d.
	00	01	00

To

	l.	s.	d.
To the Associate for a War- rant of Attorney from the Plain- tiff or Defendant, if either of their Attornies upon Record or both be absent at the Trial of the Cause, for each of them	}	00	04 00

For Return of the *Poslea* 00 02 00

If the Defendant have a Verdict, or Non-
suits the Plaintiff, then he pays

To the Marshal 00 02 00

To the Cryer 00 01 00

To the Foot-Cloth 00 01 00

To him that reads the Record 00 01 00

*Fees taken upon Trials of Nisi prius in Middle-
sex, issuing out of this Court.*

To the Associate for En- tring the Cause in my Lord Chief Justices Book	}	00	11 08
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For Return of the <i>Venire fa- cias Furatores</i> to the Sheriff of <i>Middlesex</i>	}	00	02 00
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To him for the Return of the <i>Distringas Fur.</i>	}	00	12 00
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To the Lord Chief Justices Marshal	}	00	02 00
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To the Cryer 00 01 00

And for every Witness sworn by him	}	00	00 04
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Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every <i>Tales</i> to the Sheriff	00	02	04
For a Non-suit to the Sheriff	00	02	04
To him that keeps the Jury	00	01	00
To the Porter	00	01	00
To the Jury	00	12	00
To the Associate for the Return of the <i>Postea</i>	00	02	00
For Reading the Record, and taking the Verdict	00	01	00
To my Lords Footcloth and Groom	00	01	00

*Fees taken by him that draws up Special Verdicts
in London or Middlesex.*

For drawing up a special Verdict, for every sheet	00	01	00
For Ingrossing the same by the sheet	00	00	08
For Copying the same by the sheet	00	00	04
For drawing a Special Ver- dict at the Bar, by the sheet	00	01	00
For Ingrossing the same by the sheet	00	00	08
For Copying the same, for every sheet	00	00	04

Fees

Fees taken and claimed by the Marshal of this Court, his Deputy, the Clerk of the Papers belonging to the Kings Bench Prison, and other Officers there, as Tipstaves, Chamberlain, Porters, &c.

l. s. d.

For the Commitment of every Prisoner. To the Marshal 4 s. To the Parson 2 s. To the Chamberlain 4 s. To the Under-Chamberlain 6 d. To the Turn-Key 4 s. To the Watch-man 6 d. And to the Chamberlain for Sheets 2 s. In all } 00 17 00

For the Dismission Fee of every Prisoner out of the Kings-Bench Prison. To the Marshal 10 s. 4 d. To the Steward of the House 4 s. To the Tipstaves 2 s. To the two Porters 1 s. 4 d. To the Marshals Clerk 1 s. In all } 00 18 08

For the Chamber-Rent of every Prisoner, Weekly, lying with another } 00 02 06

But if the Prisoner will have a Chamber to himself, he must agree with the Marshal as well as he can } Prout.

l. s. d.

For the Commitment of every Prisoner in Court, or at a Judges Chamber, altho' he be not sent over, the Marshal hath for his Fee } 00 10 04

For every Action commenced in this Court by Bill, viz. upon every Judgment, Bail, Committitur, Dimittitur, and satisfaction acknowledged, the Marshal hath out of each } 00 00 04

For every Prisoner charged in Execution the Marshal hath for every twenty Shillings the Execution Mony amounts to } 00 00 03

For every Prisoner charged with any Action, the Marshal hath for every twenty shillings the charge of the Action amounts to } 00 01 06

For every Prisoner committed upon a Criminal Account, the Marshal hath for a Fine for his Irons } 05 00 00

For discharging every Prisoner from the common Side of the Prison, who by the Marshals permission is received by the Turn-key of that Side, for his fidelity and encouragement in executing the Office, the Marshal hath } 00 10 00

Upon

	l.	s.	d.
Upon discharge of every Prisoner, upon Action, Execution, or other charge, the Deputy Marshal hath six shillings, and the Clerk of the Papers hath five shillings six pence	00	11	06

For the allowance of every Writ of <i>Habeas Corpus</i> , or other Writ against any Prisoner, to the Deputy Marshal two shillings, and to the Clerk of the Papers four pence. In all	09	02	04
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To the Clerk of the Papers for the Return of every Writ of <i>Habeas Corpus</i> , and Attachment out of <i>Chancery</i>	00	03	04
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For discharge of every Prisoner committed upon any Criminal Account, to the Deputy Marshal four shillings, and to the Clerk of the Papers two shillings eight pence. In all	00	6	08
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For commitment of a Prisoner in Court, or at a Judges Chamber, to the Deputy Marshal two shillings, and to the Clerk of the Papers one shilling. In all	00	03	00
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	l.	s.	d.
For any Prisoner Returned to the Fleet or any other Prison by <i>Habeas Corpus</i> , for the first Cause, to the Deputy Marshal	00	04	00
2 s. and to the Clerk of the Papers 2 s.			
For every Cause after the first. To the Deputy Marshal one shilling, and to the Clerk of the Papers one shilling	00	02	00
For every Trial at <i>Westminster</i> Hall by <i>Nisi prius</i> , to the Deputy Marshal	00	02	00
For every Trial at Bar to the Deputy Marshal	00	10	00
For every Cognizance taken in Court, to the Deputy Marshal	00	02	00
For every Pardon pleaded in Court, to the Deputy Marshal	00	10	00
For every Bail taken in Court on the Plea side, to the Deputy Marshal	00	02	00
For bringing every Prisoner committed by the Court, or by a Judge at his Chamber, to the Tipstaves of this Court	00	06	00
To the Tipstaves of this Court for carrying any Prisoner to the Court, or any other place, by <i>Habeas Corpus</i> , Rule of Court, or otherwise	00	06	00
			To

d.

l. s. d.

To the said Tipstaves, for every Person Arraigned, or that pleads his Pardon in this Court } 00 08 06

To the Tipstaves for every Bail taken in Court } 00 02 00

To the Tipstaff that attends any Trial by *Nisi prius* of this Court, for the County of Middlesex, for keeping the Jury upon such Trial } 00 03 10

Fees due for Informations and Indictments, and Pleadings to the same.

For Exhibiting every Information of *Qui Tam* } 00 03 04

For every Appearance upon any Information of *Qui Tam* } 00 02 10

For every Copy of any Information of *Qui Tam*, for every Sheet } 00 00 08

For every Plea of any Information, for every Sheet } 00 00 08

For the Plea of Not Guilty for every Person, to any Information } 00 02 00

For every *Venire facias* upon such Plea of *Not Guilty* } 00 02 00

For the continuance of every matter upon any Information, for every Person, after Issue joyned, for every Term } 00 02 00

For

Of the Practice of the

	l.	s.	d.
For every Information exhibited in the Crown Office in the Kings Attornies Name of the Court	00	06	08

For every Non-suit of an Information in the Kings Attornies Name of the Court, for his Hand to the same	00	06	08
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For Entering the same, and Judgment thereupon, for every Name	00	06	08
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For Drawing the Non-suit	00	01	00
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For a Copy thereof	00	00	08
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For every Plea of <i>Non debent Reparare</i> , wherein a Replication is required upon an Indictment, or Information for not Repairing a Bridge or Highway	00	04	00
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To the Clerk of the Rules for the Copy of every Licence for the Informer to compound	00	00	04
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For the Entering every Indictment in Trespass	00	04	00
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For every Imparlance upon any Indictment	00	04	00
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For the dismissal of every person upon an Indictment for Felony, for the insufficiency thereof	00	06	08
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For

l. s. d.

For all special Pleas pleaded
to any Information, and for
all Replications and Rejoyn-
ders thereunto, for every
Roll

For every Fine upon an In-
formation, for the Kings part,
where the Informer hath com-
pounded for his part

For every *Cerciorari* for re-
moving any Information

For every Writ of *Habeas*
Corpus cum causa thereupon

For the Bail of every person
brought in upon any such
Habeas Corpus

For every *Procedendo* upon
a *Cerciorari* or *Habeas Corpus*

For every *Duces Tecum*, after
a *Languidus in prisona* Returned
by the Sheriff

For every *Subpæna ad Testifi-*
cand. or Attachment upon In-
formation

For Enttring and making a
Licence for the Informer to
compound with the Defen-
dants in any Penal Law

For every *Distingas* upon
a Plea of Not Guilty upon any
Indictment or Information

For

l. s. d.

For the dismissal of every
person upon an Indictment
of Riot, Trespass, or the like } 00 04 08
for each Entry

For every person Indicted
upon any Offence, for his
Plea of Not Guilty } 00 02 00

For every *Venire facias* upon
such Plea } 00 02 00

For all special Pleas, Repli-
cations, or Rejoinders to any } 00 13 04
Indictment, for every Roll

C H A P.

C H A P. III.

Of the Court of Common Pleas.

THIS Court (called formerly the *Common Place*, and the *Common Bench*,) was upon the Grant of *Magna Charta* by King Henry the third, erected at *Westminster*; for before *Magna Charta* there were but two Courts of Justice, the *Exchequer* and the *Kings Bench*. The Business of the first being taken up about Matters concerning the King Revenues, and calling the Kings Farmers, Customers and Debtors to Account; And the other being not only Employed incessantly about the *Pleas* of the Crown, but was obliged likewise to follow the Court, wheresoever it should be kept in *England*, did occasion the Clause to be inserted in that Great Charter of Henry the third, for Erecting the Court of *Common Pleas*, in some certain place, *viz. Placita Communia teneantur in aliquo Loco certo*, That thereby the Kings Subjects might know whither to repair for Justice, without being harra's'd and fatigued in following the *Kings Bench*, which always attended the Kings Court in any part of the Realm.

The Matters this Court holds Plea of, are Civil Causes at Common Law, between Party and Party, or Subject and Subject; as,

First

Of the Practice of the

First, *Real Actions*, such as touch Inheritances.

Secondly, *Personal Actions*, such as concern things Transitory; as Monies, Goods, Chattels Personal, &c.

Thirdly, *Actions Mixt*; as, *Ejectione Firme*, *Quare Impedit*, and Wast, being partly Real, and partly personal, whereby is recovered not only the Lands and Tenements, or Parsonage, Vicarage, &c. but likewise Damages for detaining the Lands and Tenements, or for disturbing the Plaintiff in presenting his Clerk to such Parsonage, Vicarage, &c.

Fourthly, *Actions Popular*, as *Decies tantum*, Champerty, Maintenance, &c.

Fifthly, *Actions Penal*, as Actions of Debt upon the Statute of Usury, or upon any other Statute, wherein the Law gives a Penalty upon the Breach thereof, to him or them who will sue for the same.

The Judges in this Court are the Lord Chief Justice, and three other Justices his Assistants, who associate him on that *Bench*, and are Created to this Dignity by Letters Patents from the King, and are (as it were) Installed and placed on that *Bench*, by the Lord Chancellor or Lord Keeper, and the Lord Chief Justice of that Court.

None

None Plead at the Bar of this Court but Serjeants at Law (whose number is more or less, at the Kings pleasure,) They are all sworn to serve the Turn of the Common Law, at this Bar, and two of them are always appointed to serve the Kings Turn, in whatsoever Court there is occasion, and are therefore called the Kings Serjeants.

The Officers belonging to this Court, are,

First, The *Custos Brevium*, who is the Chief Clerk in this Court, whose Office is to receive, and keep all Writs Returnable before the Lord Chief Justice, and the other Justice, his Associates, in this Court, and put them upon Files, every Return by it self; and at the end of every Term to receive from the Prothonotaries all the Records of *Nisi prius*, called the *Postea's* (for they are first brought in by the Clerks of Assise of every Circuit, to the Prothonotary that Enters the Issue in that matter, for the Entering up the Judgment thereupon, and then do the Prothonotaries get of the Court a peremptory day for every Party to speak what he hath to alledge in Arrest of Judgment, which day being past, he Entreth the Verdict and Judgment thereupon into the Rolls of the Court; and that done, he doth at the end of every Term deliver over to the *Custos Brevium* all the Records of *Nisi prius* that came to his hands that Term, which, when he hath received, he bindeth up into Bundles, twenty Rolls together, called a File, and then

dis-

disposeth of them into the Treasury of the Records of the Court at *Westminster*.

The *Custos Brevium* also maketh Entry of the Writ of Covenant, and the Concord upon every Fine, and makes out Exemplifications, and Copies of all Writs and Records in his Office, and of the Foot of every Fine filed with him,

For after every Fine is Ingrossed, the parts thereof are divided between the *Custos Brevium*, and the Cyrographer, whereof the Cyrographer keeps allways with him the Writ of Covenant, and the Note of the Fine, and the *Custos Brevium* keeps the Concord and the Foot thereof, upon which Foot of the Fine, the Cyrographer doth cause the Proclamations to be indorsed, when they be all proclaimed. This Office of *Custos Brevium* is in the Kings Gift.

The next Office in Dignity, is that of *Prothonotary*, whereof there are three in this Court. Their Business each one in his Office is to Enter and Inrol all manner of Declarations, Pleadings, Assises and Judgments, and all other Entries of the Clerks and Attornies belonging to each of their Offices the same Term that Appearance is made.

Also they make out all Judicial Writs, *Venire facias* after Issue joyned, and *Habeas Corpora*, for the bringing in the Jury after it is returned upon the *Venire facias*.

Also they make out Writs of Execution, and of Seisin, Writs of *Superfedeas* for Appearance to Exigents, Writs of Privilege for Removing of Causes from Inferior Courts of Record (in case where the Party hath cause

cause of Privilege) and VVrits of *Habeas Corpus cum causa*, for removing the Body with the Causes from any other Court of Record, as well Superior as Inferior, either at the Suit of a priviledged Person, or Lay-Gents.

Also VVrits of *Procedendo*, of *Scire facias* in all Cases, VVrits to Inquire of Damages, and all Proceſs upon Prohibitions, and upon VVrits of *Audita Querela*, and falſe Judgment.

Moreover, they Inrol all Recognizances acknowledged in this Court, and all Common Recoveries, and may make Exemplifications of any Record of the ſame Term before the Rolls be delivered out of their hands.

The next Officer of this Court is the Clerk of the Warrants, who Enters all Warrants of Attorney for Plaintiff and Defendant, and Enters all Deeds of Indenture of Bargain and Sale, which are acknowledged in this Court, or before any Judge out of Court.

He Eſtreats alſo into the *Exchequer* all Iſſues, Fines and Amerciaments which grow due to the King any way, in this Court, and hath a ſtanding Fee of ten pounds from the King for thoſe Eſtreats, *Vide Fitzherbert's Natura Brevium*, Title *Moderata Miſericordia*, f. 76.

The next is the Clerk of the *Effoins*, who keepeth the Roll of *Effoins*, and hath for Entering every *Effoin* fix pence, and for every Exception to bar the *Effoin*, fix pence, and for every Adjournment and Copy, fix pence, and for every *Idem dies*, four pence, and
O for

Of the Practice of the

for every Rule and Copy thereof, for each four pence, and for every Non-suit in a personal Action for want of an Adjournment, two shillings four pence, and his Clerk hath twelve pence, and for every Non-suit in a Real Action he hath four and four pence, and his Clerk one shilling.

He also Exemplifies Non-suits and Effoins, and taketh for the Copy of every of them, seven shillings six pence, and his Clerk hath for a Copy of every Exemplification, three shillings four pence.

He hath also the providing of Parchment and cutting it into Rolls, and marking the Numbers upon them, for which he hath from the several Officers of the Court towards doing the same every Term, four pounds nine shillings.

Also he hath the delivering out of all the Rolls to every Officer, and the receiving them again when they are written, and the making up of the whole Bundles of every Term, and this he doth for the most part as Servant to the Chief Justice, who is at the charge of the Parchment for all the Rolls; yet the Clerk of the Effoins hath three shillings four pence for every Roll brought to him to be put in after the Part is bound up, and his Clerk one shilling.

Moreover, the Clerk of Effoins hath twelve pence of every Officer for every Roll not brought to him in time to be bound up with the Part, according to an ancient Order of this Court.

Next

Next are the Filizers of this Court, whereof there be fourteen in number; their business is to make out all mesn process, between the Original Writ and the Declaration, (except where the Action commenceth by Attachment of Priviledge, for then it is wholly in the Prothonotaries Office) as well in Actions Real, as Personal and Mixt: Where the Defendants be Re-summoned or Summoned, there goeth out the distress infinite till Appearance.

If the Defendant be Returned *Nichil habere* in the County where he lives, then (if the Plaintiff will) Process of *Capias ad infinitum* issues out from the Filizer to take him; Or after a third *Capias* is gone forth against the Defendant, the Plaintiff may go to the Exigenter of the County where his Original is groundred, and have an Exigent and Proclamation against the Defendant, and so sue him to the Outlawry.

The Filizer also maketh out all Writs of View, in Cases where the View is required.

He is also allowed to Enter the Imparlance, or the general Issue in common Actions, where the Appearance is first made with him, and also Judgments by confession in any of them before Issue joyned, and to make out Writs of Execution thereupon.

But although they do Enter the Issue, yet the Prothonotary must Enter the Judgment if it be after Verdict.

Of the Practice of the

The Filizers also make Writs of *Superse-
deas*, in case where the Defendants appear
in their Offices, after *Capias* awarded.

The Fees of this Court.

*The Fees belonging to the Filizers of this Court
are, as followeth.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every <i>Capias</i> , <i>Alias Capias</i> and <i>Plures Capias</i> , in Debt, De- tinue and Trespass, not having above four Names in a Writ, for making and Entring there- of	00	00	06
But if it contain more than four Names	00	01	00
For a <i>Deliberatur de Recordo</i> of every first <i>Capias</i>	00	00	04
For a <i>Testatum</i> upon any of the said <i>Capias's</i> and for a <i>Po- ne</i> in Replevin, with the Sum- mons, or other <i>Pone</i> and Di- stress where it lyeth	00	01	00
For a <i>Capias</i> , or an <i>Alias</i> , or <i>Plures</i> in Account, Annuity, Covenant, Ejectment, or up- on any Penal Statute, with the Entry thereof	00	01	00

For

Court of Common Pleas.

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l. s. d.

For every Writ in an Ordinary Action upon the Case, with its Entry if short } 00 01 00

But if long then according to its length } *Prout.*

For every *Retorn. Habend.* and second Deliverance, with its Entry before Appearance } 00 02 06

For every *Non Omittas*, and *Capias* in *Withernam*, with its Entry } 00 02 06

For every *Pone* in Partition, *Warrantia Chartæ*, *Quare Impedit*, and Waste, with their Entries } 00 01 00

For every Writ of Inquiry of Damages in real Actions, and for every Writ of *Scire facias* and *Supersedeas* } 00 02 00

For every Writ of *Habeas Corpus* upon a *Cepi*, *Duces tecum*, *licet languidus*, *Distringas nuper Vic'*, or *distringas Ballivum Libertatis*, and their Entries } 00 02 00

For every Writ of *Rescous*, with its Entry } 00 02 00

For every special Bail with its Entry } 00 02 10

For every Grand Cape, Petit Cape, alias Summons, with their Entries } 00 02 06

Q 3

For

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Writ of View, with the Entry thereof, of the De- mandant	00	02	06
For every Copy of the En- try thereof	00	00	08
For the View Prayer	00	02	00
For every Writ of Seisin and the Judgment, with its Entry	00	04	06
For the Entry of every Ad- journment, Continuance and Resort	00	00	04
For every Appearance upon any <i>Capias</i> , or Writ to Arrest, and the Entry thereof upon Record	00	01	00
For every Defendants Ap- pearance not Entred upon Re- cord	00	00	04
For every Search, Copy, Number Roll, or for giving any Rule	00	00	04

The next Officer of this Court is the *Ex-igenter*; there be four of them in number, their Office is to make all Exigents and Proclamations in all Actions where Process of Outlawry doth lye. Their Fees are for every Common Exigent a Shilling, but if longer than ordinary they take more, according to the length; and for every ordinary Proclamation they take six pence, but if

it be extraordinary they have more, according to its length.

In the next place we come to the Office of the Clerk of the Juries, who maketh out all Writs of *Habeas Corpora Furatorum*, and *Distingas Furatores*, for summoning the Jurors either to appear in Court, or at the Assises, after that the Pannel of the Jury is Returned by the Sheriff upon the *Venire facias*.

He Entreth also into his Rolls the awarding of these Writs, and maketh all the Continuances from the issuing out of the *Habeas Corpora Furatorum*, until the Verdict be given.

His Fees are, as followeth.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Writ of <i>Habeas Corpora Furatorum</i> , in Debt and Trespass	00	00	10
For every Writ of <i>Habeas Corpora Furatorum</i> , in any other Action	00	01	04
For a <i>Distingas Furatores</i> , with a <i>Tales</i>	00	02	04
For every Copy of a Jury, Search of a Term, or Number Roll, and for every Continuance	00	00	04

Of the Practice of the

There is also an Officer of this Court, called the *Cyrographer*, who Ingrosseth all Fines upon Writs of Covenant acknowledged in this Court, or before the Lord Chief Justice at his Chamber, or before any Judge of Assize, or otherwise, the Caption whereof is taken by virtue of any special Commission, and maketh a perpetual Record thereof, after they have passed through the several other Offices.

He also writeth and delivereth the Indentures of them to the Parties.

He maketh likewise two Indentures, one for the Plaintiff, the other for the Deforçant or Buyer and Seller (if the Fine be acknowledged upon a Purchase) and an other Part of the Indentures, containing the effect of the Fine, which he delivereth to the *Custos Brevium*, called the Foot of the Fine.

He also, or his Deputy doth Proclaim all the Fines in Court, every Term, according to the Statute, and then repairing to the Office of the *Custos Brevium*, there he Endorseth the Proclamations on the back of the Foot thereof, and always keepeth the Writ of Covenant, as also the Note of the Fine.

The Cyrographers Fees claimed by him and his Clerks, are as followeth.

l. s. d.

He claims 5 s. as his Fee
for every Fine, viz. 4 s. as an
ancient Fee limited by the
Statute of 13 *Edw. I.* and 8 d.
for the new Service in pro- } 00 05 00
claiming the Fine by the Sta-
tute of 4 *H. 7.* and 4 d. for
writing the Roll of the Fine
by the Statute of 23 *Eliz.* In
all

For Exemplifying a Fine the } 00 02 08
same Termit is Ingrossed

But if it be an ancient Fine }
He claims for the Exemplifica- } 00 13 00
tion thereof

And if with Proclamations 00 16 08

For the Copy of any Fine }
out of the Records, for every } 00 01 00
sheet containing 12 Lines

For the sight of every Re- }
cord of fresh date, without ta- } 00 01 00
king any Copy

For the sight of every anci- }
ent Record, from *Henry the* } 00 03 04
Eighth's time upward

But if it be from *Henry the* }
Eighth's time downward, then }
you pay for the search of eve- } 00 00 08
ry Year

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the search of any Fine for every Year of the Reign of <i>Henry</i> the Eighth, and up- wards	00	01	00
For certifying any Record upon a Writ of Error	00	12	00
For every <i>Quid juris clamat,</i> <i>Quem Redditum reddit,</i> or <i>Per</i> <i>que servitia</i>	00	06	00
For Entering every Claim upon Record	00	05	00
For allowing Proclamations upon any Fine brought into the Office after the end of the Term	00	00	06
For the <i>Post Terminum</i> of every Fine	00	01	02
To the Clerk that deals for the County where the Lands comprized in the Fine do lye, for Ingrossing every Fine of an ordinary length	00	03	06
But if the Fine be extraordi- nary long, then according to its length	<i>Propt.</i>		

Then the Clerk of the *Kings Silver*, who
is an Officer of this Court, to whom all
Fines are brought after they have been with
the *Custos Brevium*.

By

d. By this Officer the Substanc (or Effect by
way of Abstract) of the Writ of Covenant
is Entred into a Paper Book, according to
which Note all the Fines of that Term are
Entred up upon Record in the Rolls of the
Court, but his Entry is in this manner, the
County being first put in the Margin, Leic. ss.
A. B. dat Domino Regi dimid. marc. (or other-
wise according to the value of the Lands
comprized in the Fine) pro Licencia Concordan-
di cum C. D. pro duobus Messuagiis uno Molen-
dino aquatico quadraginta Acris Terræ viginti
Acris Prati & quinquaginta Acris Pasturæ cum
pertin. in E. Et habeat Cyrographum per pacem
admissam, &c.

The Clerk of the Kings Silvers Fees are, as fol-
loweth.

	l.	s.	d.
For every Fine taken by the Lord Chief Justice, or any Judge of Assise	00	00	10
For every Fine taken by spe- cial Commission	00	01	02
For every several caption of such Fine	00	00	04
For every Fine taken in the Western Circuit	00	01	10
For every Fine certified by Cerciorari	00	02	04

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the <i>Post Terminum</i> of every Fine brought in the Vacation, after the Return of the Writ of Covenant	00	00	06
For a search for a Fine for every Term	00	00	04
For a Copy of the Note of the Kings Silver, for every sheet	00	00	08
For the <i>Post Terminum</i> of every Fine brought into this Office, the next Term after the Return of the Writ of Covenant, and for every other Term	00	03	04
For every <i>Ne Recipiatur</i> of any Fine Entred with the Clerk of the Kings Silver by Rule of Court or Warrant from any of the Justices thereof	00	01	00

The next Officer of this Court, is the Clerk of the Treasury, who hath the charge of keeping the Records of the Court, and maketh up and sealeth all Records of *Nisi prius*, and taketh the Fees due for all manner of Searches in the Treasury, and the certifying all Records into the Court of *Kings-Bench*, when a Writ of Error is brought.

He also maketh out all Writs of *Superse-
deas de non molestando*, which are granted for the Defendants, pending the Writ of Error.

Like-

d. Likewise he maketh all Exemplifications of Records lodged in the Treasury.

06 He makes Copies of all Issues, Imparlanes, and Judgments in all Actions, Real, Personal or Mixt, as likewise of all Informations, and Recognizances upon Record in the said Treasury, and receives Fees for searches of the same.

08 He is Servant to the Chief Justice of the Court, and removable at his pleasure; whereas all other Offices (hitherto mentioned) are for Term of Life.

4 *The Fees belonging to the Clerk of the Treasury, and his Under Clerks, are as followeth.*

l. s. d.

For the Copy of any Imparlance, or Issue in Debt, Trespas, or other personal Action, or for any Copy of a Book to be Exemplified, for every sheet thereof written Copy-wise	}	00	00	04
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For the Copy of any Judgment, or real Action, or Recognizance, for every sheet	}	00	00	08
--	---	----	----	----

For the Copy of every Information, or Action upon any Penal Statute, or of any Deed Inrolled, for every sheet	}	00	00	08
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To the Clerk of the Treasury for the search of every Term above ten Years past 3 s. 4 d. and to the Under Keeper of the Treasury 8 d. In all	}	00	04	00
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For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every Exemplification containing three sheets, and no more	00	07	06
And for every sheet more	00	01	00
For every Record of <i>Nisi pri-</i> <i>us</i> containing three sheets	00	02	00
And for every sheet more	00	00	04
To the Under Clerk for every sheet of any Record of <i>Nisi prius</i> he doth Ingross	00	00	04
To the Clerk of the Treasu- ry for every Verdict Exempli- fied by any of the Prothonota- ries Clerks, out of the Protho- notaries Fees	00	02	00
To him for every Record carried out of the Treasury into the Court of <i>Kings Bench</i> or <i>Exchequer</i> Chamber	00	06	08

*Fees claimed by the Under Clerk of the Treasury
writing in the Clerk of the Treasuries Office.*

For Examining any old Re- cord of <i>Nisi prius</i> for the Assises, containing twelve sheets	00	01	00
If more, for every sheet	00	00	01
For Examining and Ingross- ing every Record of <i>Nisi prius</i> containing three sheets	00	01	00
And for every sheet more	00	00	04

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
06 <i>d.</i> For Writing or Examining } every <i>Jurata</i>	00	00	04
00 For a Copy of every <i>Precipe</i> } from the Rolls of the Treasury	00	00	04
00 For Examining any Paper } Book in the Treasury, for every twelve sheets	00	01	00
04 For Exemplifying any Re- } cord in the Treasury, for the first five sheets	00	04	04
04 And for every sheet more	00	00	04
00 To the Clerk of the Treasu- } ry for the Keysof the Treasury to make any searh of the Records there, or to take any Copies of the Records out of Term, or at any time when the Court is not sitting	00	01	06

The next Officer of this Court is the Clerk of the Seal, who sealeth all Writs Judicial and Ministerial, as likewise all Writs made by the Filizers of this Court, called mesn Procefs, as likewise Writs of Outlawry and *Supersedeas*, and all Patents or Exemplifications issuing out of this Court, and taketh the Fees due for the same, and thereof renders an Account to the Duke of Northumberland, Master of this Office, and to the Lord Chief Justice of this Court.

Of the Practice of the

The Fees are, as followeth.

	l.	s.	d.
For the sealing every Writ, except Outlawries and Writs of Priviledge at the Suit of any Enteing Clerk, Attorney, or Officer of the Court	00	00	07
For the sealing every Out- lawry	00	00	01
For sealing every Attach- ment of Priviledge at the Suit of any Enteing Clerk, Attorney, or other Officer, or Minister of the Court	00	00	01
For the sealing every Ex- emplification	00	03	02

Clerk of the Outlawries of this Court; He is only a Servant or Deputy to the Kings Attorney General for making out the Writs of *Capias Utlagatum* after Outlawry, and the Attorney General's Name is to every one of these Writs: And whereas 7 d. is paid for the Seal of every other Writ (except *Proprium's*) there is but 1 d. paid for the Seal of any Writ of *Capias Utlagatum*, be it general or special, because it is always supposed to be at the Kings Suit.

The

The Fees of this Office are as followeth.

For every general *Capias Utlagatum*, that is not at the Suit of any Entering Clerk, Attorney, or any Officer or Minister of the Court } 00 00 10

For every such general *Capias Utlagatum*, at the Suit of such Clerk, Attorney, Officer, &c. } 00 00 06

For every special Writ of *Capias Utlagatum*, not being at the Suit of an Entering Clerk, Attorney, Officer or Minister of the Court } 00 01 04

For every such special Writ of *Capias Utlagatum*, at the Suit of such Clerk, Attorney, Officer, &c. } 00 01 02

For Transcribing every special Writ of *Capias Utlagatum* with the Inquisition thereupon of any Lands or Tenements, Goods or Chattels (seized into the Exchequer, by virtue of any Outlawry) and of the Exigent and Return thereof, at the Plaintiffs request } 00 08 00

l. s. d.

But if it be by the special command of the Lord High Treasurer of *England*, the Chancellor or Barons of the *Exchequer*, or of his Majesties Attorney General, or Solicitor then nothing is demanded

Nil.

To the under Clerk for In-
grossing such Writ and In-
quisition, Exigent and Return
on Parchment

00 02 00

For Transcribing the Out-
lawry and Reversal thereupon
into the *Exchequer*

00 05 00

For every general Certifi-
cate of any Outlawry, or Re-
versal thereupon

00 02 00

For Entring every Discharge
of any Outlawry Reversed, or
Writ of Error thereupon, to
prevent the making any Pro-
cess afterwards upon the same

00 02 08

The Under Clerks Fees.

For the writing every ge-
neral Certificate upon the
search of any Outlawry

00 00 04

For Entring every Outlaw-
ry upon the Roll, when it hap-
pens (being very rare)

00 00 08

For the search of every Out-
lawry for every Year

00 01 00

For

l. s. d.

For Entering every Exigent
before any Process made there-
upon, and pying and filing the
same } 00 00 04

For writing a Note or short
Copy of any Outlawry } 00 00 04

The Clerk of the Office of Inrolment of Fines and Recoveries. This Office was Erected in the Reign of Queen Elizabeth, pursuant to the Statute made for that purpose in *Anno Regni sui vicesimo Tertio*. The Clerk of this Office is placed in the same by the Judges of this Court, and his Business is to return all Writs of Covenant upon all manner of Fines whatsoever, as also Writs of Entry, Summons and Seisin upon Common Recoveries, as Deputy upon Record for all the Sheriffs of *England*, appointed by the Court. He also Inrolls all Fines and Recoveries, with every several Writ and Entry appertaining thereunto, and doth likewise at the request of the Party Exemplifie the same.

The Fees belonging to the Clerk of this Office are as followeth.

First a Fee due to the Judges
by the Statute of 23. *Eliz.* for
Inrolling every several Fine and
Recovery } 00 06 08

To the Judges for Exempli-
fying every several Inrolment } 00 05 00
by the same Statute

Of the Practice of the

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every several Years } search for any Fine Inrolled	00	00	04
For every sheet made Copy- } wise of any Fine Inrolled	00	00	04
For the Clerks Fee for In- } rolling every several Roll.	00	08	04
For the Exemplification of } every such Inrollment	00	08	04
For every Rule upon amend- } ment	00	03	04
For Returning every Writ } of Covenant upon any Fine, Writ of Entry, Writ of Sum- mons to Warranty, or Writ of Seisin upon any common Re- covery, as Deputy upon Re- cord for Sheriffs appointed by the Court, the ancient Fee of	00	02	00

*Of the Manner of Proceeding in the Court of
Common Pleas.*

The Method of proceeding in this Court is by Original Writ, called a *Præcipe*, which is to will the Sheriff, That he command the Defendant to do somewhat in certain that the Plaintiff sueth for, which if he doth not, then to summon him before the Justices of this Court, by a certain day (called the Return of the Writ) to shew cause why he did it not.

Of

Of *Præcipe's* there be several Kinds; as,

First, A *Præcipe quod Reddat*, which lieth for Things in *Render* (that is to say) to Restore somewhat, as *Choses Real*, viz. Land, and other things in *Demesn*, as *Rent*, a *Corody*, &c. and sometimes *Personal Things*, as *Mony*, *Goods detained*, &c.

Secondly, A *Præcipe quod Faciat*, to do somewhat, which lieth for Things not in *Render*, but either in *Feazance*, as a *Writ De Consuetudinibus & Servitiis, Secta ad Molendinum*, &c. or in *Sufferance*, as a *Quod Permittat*, or in Things of the like nature.

Thirdly, A *Si fecerit te securum*, which is a meer *Summons* in it self, and no more, willing the *Sheriff* (upon the *Plaintiffs* putting in *Sureties* to *Prosecute*) to summon the *Defendant* to appear and answer to the *Plaintiffs* *Suit*.

Præcipe's in *Real Actions* for the Recovery of *Freeholds*, are either *Possessory*, or in the *Right*.

Possessory, are such whereby the *Possession* of any *Estate* is recovered, as *Writs of Assise Ayel, Besayel and Cosnage*.

Præcipe's brought in the *Right*, which are to Recover a *Possession* mixt with the *Right*, as *Rectum patens, & clausum; Rectum in London; de Dote, de Rationabile parte Bonorum*, &c.

And both these may be either of a Possession or Right in the Demandant himself, or that which descends from his Ancestors, called Possession Ancestrel.

By the Statute of 32 Hen. 8. Cap. 2. Seisin in a Writ of Right shall be within sixty days.

In a *Mort d'Ancestor*, or other Possessory Action upon the Possession of an Ancestor or Predecessor, Seisin shall be within fifty Years.

But a Writ of the Possession of the Plaintiff himself shall lay the Seisin to be within thirty Years.

An Avowry or Cognizance for Rent, Suit or Services of the Seisin of an Ancestor, or of the Party himself shall be within forty Years.

Also *Formedon* in Remainder or Reverter, or *Scire facias* upon a Fine, shall alledge Seisin within fifty Years after Title accrued.

And if a Man prescribe in Land, Rent, &c. of the Possession of his Ancestor or Predecessor, he shall alledge Seisin in them, within forty Years next before the time of the Prescription, Title or Claim.

But by the Statute of *Primo Mariae*, Cap. 5. the Statute of 32 Hen. 8. Cap. 2. above recited, concerning Limitations, shall not extend to any Writ of Right *de Advocatione*, *Quare Impedit*, *Jure Patronatus*, or *Affise of Darrein Presentment*, but that the time of the Seisin alledged shall be as it was at the Common Law.

And Note, That a *Præcipe quod Reddat* for recovery of the Freehold, according to *Lit-tleton*, lieth only against the Tenant of the Freehold and therefore a Release of all Actions Real is no Plea, unless the Releasee were Tenant of the Freehold at the time of the Release made, for otherwise there were no Cause for any such Action against him.

Neither can any such Action be brought against Lessee for years, because he hath nothing of the Freehold.

Nor can the Disseisee have a *Præcipe quod Reddat* against the Disseisor, who is Pernour of the Profits, only for years, notwithstanding the Statute, because no Action did lye against him at Common Law.

For the same reason also *Non Tenure* of the whole, or part of the thing demanded; or *Joynt Tenancy* with one not named in the Writ, or *Intire Tenancy* of the whole, or *Several Tenancy* of Parcel, when the Writ is brought against two or more, are good Pleas in abatement of the Writ.

But by the Statute of 25 *Edw. 3. Cap. 16.* *Non Tenure* shall not abate the Writ, but only for the quantity.

And Note, That with the Freeholder any person may be joyned that hath Title to Enter, as the Mortgagor with the Mortgagee, but not the Disseisee with the Disseisor.

A *Præcipe quod Reddat* of Land, or any other thing that lieth in Demesne, where Land in certain is demanded, must always be brought in a *Ville*, or *Town*, or *Place* known out of a *Town*, and not in a *Hamlet*, which is part of a *Ville*.

Of the Practice of the

But personal Actions, as Trespass and such like, may be brought in an *Hamlet*.

So may Dower and Affise, because in these no Land in certain is demanded; and also for that in Affise the Plaintiff shall recover by view of the Jury.

Likewise a Writ of *Scire Facias* to execute a Fine, a Writ of Covenant, *Mesn*, *Nuper obiit*, *Quare Impedit*, or Waste, may be brought of Lands in a *Hamlet*, or place known out of a *Town* or *Ville*, but not a Writ of Right of Advowson.

Writ of Entry.

A Plea of Land (in Latine *Placitum Terræ*, or *de Placito Terræ*) is commenced by Writ of Entry, which is a Writ shewing the Demandants Title, and is to disprove the Tenants Possession by means of his Entry: The words whereof for Tenant in Fee-simple are (in relation to the possession of his Ancestor) *Quod clamat esse jus & Hereditatem suam*: But Tenant for Life or Tenant in Tail shall set forth his Title specially. *F. L. c. 3. f. 261.*

This Writ is either brought against the first Party, that is to say, him to whom the first Alienation was made, or that made the first Disseisin; or in the *Degrees*, as in the *Per*, which is when he against whom it is brought comes in immediately under the first Party, as his Heir or Alienee; or in the *Degrees*, as in the *Per* and *Cui*, viz. when he against whom it is brought cometh in immediately under the Heir to the first Party, or under

under him to whom the first Party hath Alien-
ed the Land; for if there be more than
two Alienations of the Estates, viz. one in
the *Per*, and the other in the *Per* and *Cui*,
the Demandant is obliged to bring his Writ
of *Right*, which is a Writ of the highest
nature, and Paramount all other Writs at
the Common Law, and the reason is, That
there may be an end of Suits.

Besides these two Writs of Entry in the
Per, and in the *Per* and *Cui*, at the Common
Law, there is now another VVrit of Entry
created by the Statute of *Marlbridge, Cap. 29.*
called a *Writ of Entry in the Post*, which lieth
where he against whom it is brought, comes
in neither in the *Per*, nor in the *Per* and *Cui*,
but where the Demandant supposeth, That
the Tenant *Non habet Ingressum nisi post
Disseisinam quam D. D. inde injuste & sine
Iudicio fecit prefat [le Demandant] infra
triginta annos, &c.*

Or, *In quod &c. nisi post Dimissionem quam* F.N.B. 201. E.
&c. out of all Degrees, as by Abatement, Dis-
seisin, Escheat, Recovery, Election, Succes- F. N. B. 192.
sion, Dower, Judgment, &c. or as the third C. F.
or more Feoffees.

If the VVrit of Entry be in the nature of
an Affise against the Disseisor himself, it
runs thus,

Precipe A. qđ iuste &c. reddat B. unum Mel- F.N.B. 191. C.
suagium cum pertinē in D. quod clamat esse
jus & hereditatem suam de quo idem A. injuste Vide Stat. 32.
& sine Iudicio Disseisivit predictum B. infra H. 8. cap. 2.
triginta annos &c. ut dic Et nisi &c.

But

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But if the Disseisin be made to the Demandants Father or other Ancestor, then the VVrit must be made thus,

Precipe A. qđ iuste &c. reddat B. unum Mesluagium cum pertinē in D. quod clamat esse ius & hereditatem suam Et de quod idem A. iniuste & sine iudicio disseisavit C. Patrem [or other Ancestor] predicti B. cuius heres ipse est infra triginta annos &c. ut dic Et nisi &c.

Or, if it be in the Per thus,

Precipe A. qđ iuste &c. reddat B. unum Mesluagium cum pertinē in D. quod clamat esse ius & hereditatem suam Et in quod idem A. non habet ingressum nisi per C. qui illud ei dimisit, qui iniuste disseisavit C. Patrem [or other Ancestor] predicti B. &c. infra triginta annos &c.

Or thus in the Per and Cui,

Precipe A. qđ iuste &c. reddat B. unum Mesluagium cum pertinē in D. quod clamat esse ius & hereditatem suam Et in quod idem A. non habet ingressum nisi per C. cui D. illud dimisit qui inde iniuste & sine iudicio disseisavit C. Patrem predicti B. cuius heres ipse est [or disseisavit predictum B. the Demandant himself] infra triginta annos &c. Et nisi &c.

Or in the Post thus,

Precipe A. qđ iuste &c. reddat B. unum Mesluagium cum pertinē in C. quod clamat esse ius & hereditatem suam Et in quod idem A. non habet ingressum nisi post disseisam quam D. iniuste & sine iudicio fecit prefat B.

[or

[or, *E. patri, vel alii Antecessori predicti B. cuius Heres ipse est*] *infra triginta annos &c.* *ut dic. Et unde queritur &c.* *Et nisi &c.*

But if it be a Writ of *Dum fuit infra Etatem*, which is a Writ of Entry also, and lieth where an Infant makes a Feoffment of his Lands in Fee, for Life, or in Tail to a Stranger; now when he comes of full Age, he may either enter into the Land, or have this Writ to recover the Lands so by him aliened, but he cannot have it before he attain his full Age of 21 years, as appears by *E. N. B. 1921 g. b.*

And there it appears also, That the Infant may have this VVrit, for Lands aliened by his Ancestor, in the *Per Cui* and the *Post*, but then he must bring the VVrit during his *Nuage*, for the Clause, *qui plene est Etatis*, shall not be put into a VVrit of *Dum fuit infra Etatem*, which an Infant brings of the Alienation of his Ancestor.

If an Infant makes a Lease for years of his Lands, and afterwards doth Release to the Lessee, and his Heirs, it is doubted, whether in this Case, he shall have his VVrit of *Dum fuit infra Etatem*, for by old *Natura Brevium*, he cannot, but, there said, If the Lessee entreth, the Infant may have an Affise, and the reason there is, because the Entry of the Lessee and his continuance of the seisin of the Lands afterwards, is a Disseisin to the Infant.

But if the Infant makes a Lease for Life of his Lands, and afterwards Release to the Lessee and his Heirs, it seems in this Case, That

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That the Infant may have a Writ of *Dum fuit infra Etatem*.

And by *F. N. B. 192. k.* If two Infants be Joynt-Tenants, and they Alien the Lands during their Nonage, they ought when they come of full Age, to sue out several Writs of *Dum fuit infra Etatem*, for that the Cause of Action is their Nonage, which is several, and the Nonage of one of them is not the Nonage of the other, nor the Alienation of one of them the Alienation of the other.

So, by *Cook, Lib. 8. Whittingham's Case*, If two Joynt-Tenants in Fee be Infants within Age, and one of them makes a Feoffment in Fee of his Moiety, and dieth, the Survivor cannot Enter by reason of the Infancy of his Companion, for by his Feoffment the Joynt-Tenancy was severed, so long as the Feoffment remains in force; and therefore the Heir of the Feoffor shall either Enter upon the Moiety of his Ancestor, so aliened by him in his Infancy, or have the VVrit of *Dum fuit infra Etatem* in the Per.

But if two Infants be Joynt-Tenants, and they joyn in a Feoffment, there remains a Joint Right in them, so that if one dyes the Right survives to the other, who shall have the Lands, as from the first Feoffor; and the reason is, because otherwise this mischief would ensue, That the Heir of the Feoffor who dieth, could not Enter, because the Right doth survive; neither can the Survivor Enter, because he can have no benefit of the Infancy of his Companion; but the Survivor shall be forced to bring his VVrit of Right, which he may have for this reason, because
after

after the Feoffment, the Joynt - Tenants might have joyned in it.

And by *F. N. B. 192. l.* If Husband and VVife alien the Lands of the VVife, during the Nonage of them both, she may, at her full Age, after the death of her Husband, have a *Dum fuit infra Etatem* of this Alienation, and so is *Mich. 14. Ed. 3.*

But if the Husband be of full Age, and the VVife be within Age, and they both alien the Lands of the VVife, and afterwards the Husband dyes, it hath been doubted if the VVife shall have this VVrit; but *Fitzherbert* is of Opinion, That she may have either a *Dum fuit infra Etatem*, or a *Cui in vita*, at her Election; for when the Husband and VVife both joyned in the Feoffment of the Lands of the VVife, the same shall be deemed the Feoffment of the VVife, until her disagreement thereto; for if the Husband and VVife make a Gift in Tail, or a Lease for Life, of the Lands of the VVife, rendring Rent, if the Husband dieth, the Reversion is only in the VVife, and she may accept the Rent, and that shall bind her and her Heirs; and on the contrary, if she will not accept the Rent, but in regard she was within Age at the time of the Feoffment made, if she will bring a *Dum fuit infra Etatem*, it seems she shall be received thereto, for by this Suit she affirmeth that she made the Feoffment, and then it shall not be said to be the Feoffment of the Husband only, but the Feoffment of the VVife alone, after the death of the Husband, if she affirm it to be her Feoffment; and by the *Dum fuit infra Etatem* she affirms, That she
made

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made the Feoffment during the Coverture, &c. And on the other side it may be said, That she doth not affirm it to be a lawful Feoffment made by her; and also that by the Feoffment of the Husband the Entry of the VVife is taken away; but by the Feoffment of the VVife during her Nonage, her Entry shall not be taken away, *Fitzherberts Nat. Brev. 192. l.*

But by *Co. Lib. 8. Whittingham's Case*, If the Husband within Age makes a Feoffment in Fee of the Lands whereof he is seised in right of his VVife, and dieth, the Heir of the Husband cannot Enter and avoid the Feoffment, because that nothing can descend to him from the Husband, the Law not respecting what Estate the Ancestor giveth, but what Estate he had before the Gift, and what Right or Title the Ancestors leave to descend to the Heir.

But in such Case, the VVife when her Husband within Age makes a Feoffment in Fee, may Enter in her own Right, in whose Right her Husband might have Entred.

But if the Husband within Age had taken to VVife Tenant in Tail, and had made a Gift in Tail to another, by which he gained a New Reversion in Fee, there the Entry is given to the VVife, for that the Husband might have Entred in her Right; but if he doth not Enter and defeat the Estate Tail by the Husband Infant, the new Reversion by the Act of Law doth vanish, and the VVife by Operation of Law shall be presently seised of her ancient Estate.

There

There is also a VVrit called *Dum non fuit compos mentis*, which lyes where a Man of unsound Memory doth Alien his Lands or Tenements in Fee simple, Fee tail, for Life, or Term of Years; if afterwards he be de- forced by his Alienee or Lessee, he may have this VVrit against them, notwithstanding it be against his own Act.

This is a VVrit of Entry, and lies either upon the Alienation of the Party himself, or of his Ancestor being of unsound Memory.

It appears by *Britton*, Title *Det sur Obligation*, the Defendant said, That he was not *Compos Mentis* at the time of making the Deed upon which the Plaintiff did Declare, and held a good Plea.

And *Pasch. 32 Edw. 3.* Title *Scire Facias* in the Abridgments, If an Ideot Release his Right by Deed, this Release shall not bind him, &c.

And by *7 H. 4. 33.* A Feoffment made by an Ideot, by Letter of Attorney, is void. And so it seems to be in case of a Man of unsound Memory.

And if one who is *Non compos mentis* doth alien his Lands in Fee, and dyes, his Heir may have this VVrit, or may Enter into the Lands as his Ancestor might have done, in like Case as an Infant within Age upon Alienation, &c.

But by the Book of *Assise*, *25 Edw. 3.* A Man of unsound Memory made a Feoffment, and took back an Estate for Life to himself, and agreed and admitted that it was a *Remitter*; and thereupon Issue was taken,
That

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That he was of good Memory, &c. And so it was found by Verdict, &c.

And these two VVrits of Entry last mentioned, viz. a *Dum fuit infra Etatem*, and a *Dum non fuit compos mentis*, are grounded upon the disability of the Party.

VVrits of Entry brought upon a wrong at the first, are either upon a *Discontinuance*, as a *Cui in vita*, or a *Sine Assensu Capituli*, or upon an *Ouster*, or an *Intrusion*, or *Disseisin*.

A VVrit of *Cui in vita* lies where the Husband alieneth in Fee the Right and Inheritance of his VVife, or the Freehold of his VVife by Feoffment, &c. or doth Demise the same for Life, or in Tail; here after his death, she may have this VVrit, *Cui in vita contradicere non potuit*.

And if the VVife sue not out this VVrit in her Life-time, her Heir (if she hath an Estate in Fee simple,) may have a Writ of *Sur cui in vita* after her death.

And if the Wife hath an Estate Tail, and her Husband doth alien the same during her Life, her Heir after her death, may have a VVrit of *Formedon in Descender*, to recover the same, and not a Writ of *Sur cui in vita*; for the VVrits of *Cui in vita*, and *Sur cui in vita* are grounded upon the Common Law, and upon Estates in Fee-simple, there being no Estate descendable by the Common Law, but a Fee-simple Estate; for if the Lord had given an Estate to hold of him by the Common Law, if the Tenant had died without Heir, he might have had a VVrit of Escheat.

So

So, if a Man had, by the Common Law, given Lands to one, and the Heirs of his Body, &c. and had died without Heir of his Body, &c. the Lord who made the Gift, or his Heir, should have had a *Formedon in Reverter* of that Estate, for want of Issue, extinct of him to whom the Estate was made; but yet it seems the Donor shall have Fee Simple, as appears by the Statute, which saith *De Tenementis quæ multociens dantur sub conditione*, by which words it appears, That this Gift shall have a Condition implied therein, *viz.* That it shall revert for want of such Issue, and by reason of the Tenure reserved, &c. But it doth not appear by the Statute, that he shall have an Estate Tail of another nature than that which was by the Common Law.

Also this Writ lieth for the VVife, after her Husbands death, where he alieneth her Estate in Fee simple, Fee tail, or Freehold, whether Dower or otherwise, or of such a joint Estate in them. And where she claims a Fee simple, of her own possession, the words of the VVrit shall be *Quod clamat esse jus & hereditatem suam*.

But where the Wife claims an Estate Tail, or a Freehold, there special mention must be made in the Writ of the nature of the Estate; as, in Frank-Marriage in the *Per and Cui*. *Quod clamat esse jus & Paritagium suum Et in quod idem A. non habet ingressum nisi per C. Cui p̄dictus D. quondam vir ipsius B. illud dimisit, cui ipsa in vita sua contradicere non potuit, ut dicit, &c.*

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Or in the *Post* thus, *Et in quod idem A. non habet Ingressum nisi post dimissionem quam p̄dictus D. quondam vir ipsius B. Cui ipsa in vita sua contradicere non potuit, inde fecit ut dicit Et unde queritur &c. Et nisi &c.*

Or thus, *Quod clamat esse Jus suum de Do- no J. S. qui ipsam B. C. inde feoffavit Et in quod &c.*

Or thus where Husband and Wife are Joynt Purchasors of an Estate, *Quod clamat esse Jus suum de Dono J. R. qui ipsam B. & p̄dictum D. quondam virum suum inde feoffavit Et in quod &c.*

But if Lands be given to the Wife and the Heirs of her Body, and of the Body of her Husband begotten, in this case the Husband hath a Joynt Estate with his Wife for Life, and the Writ shall be in this manner, *Quod clamat tenere sibi (the Wife) & heredibus de corpore suo, & de corpore p̄dicti D. quondam viri sui ex eund ex dimissione J. S. &c.*

Or, *Quod clamat esse Jus suum ex dimissi- one quam J. R. inde fecit eidem B. & p̄dicto D. quondam viro suo & heredibus ipsius B. &c.*

But if the Wife claims to hold the Lands in Dower, then the Writ shall be thus, *Quod clamat esse dotem suam ex Dotacione D. p̄mi. (vel secundi) viri sui Et in quod idem A. non habet Ingressum nisi per p̄dictum D. p̄mum (vel secundum) virum suum (vel ipsius B.) qui illud ei dimisit &c.*

And

And if she holds the Lands for term of her Life by Lease, then the Writ shall be, *Quod clamat tenere ad vitam suam ex dimissione quam J. S. inde fecit eidem B. & Pfato D. quondam viro suo ad vitam eorundem B. & D. &c.*

And a *Sur* cui in vita for the Heir of the Wife, where the Husband hath aliened her Lands in Fee, must be after this manner, *Precipe A. qđ iuste &c. reddat B. unum messuagium cum ptin in A. quod clamat esse Ius & hereditatem suam Et in quod idem A. non habet Ingressum nisi per C. quondam virum D. matris predicti B. cuius heres ipse est, qui illud ei dimisit, cui ipsa D. in vita sua contradicere non potuit, ut dicit &c.*

And in the *Per* and *Cui* thus, *Quod clamat &c. Et in quod &c. nisi per C. cui D. quondam vir C. matris (amite, sororis, vel consanguinee) predicti B. cuius heres ipse est, illud ei dimisit, cui ipsa D. in vita sua contradicere non potuit &c.*

But if it be in the *Post*, then after this manner, *Nisi post dimissionem quam D. quondam vir C. matris predicti B. & Amite predicti D. cuius heredes ipse sunt, cui ipsa C. in vita sua contradicere non potuit, inde fecit, ut dicunt, Et unde queritur &c. Et nisi &c.*

And Note, It appears by this Writ, That the Aunt and the Niece may joyn therein, upon Alienation made by the Husband, their common Ancestor, or upon Recovery had

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Or in the *Post* thus, *Et in quod idem A. non habet Ingressum nisi post dimissionem quam predictus D. quondam vir ipsius B. Cui ipsa in vita sua contradicere non potuit, inde fecit ut dicit Et unde queritur &c. Et nisi &c.*

Or thus, *Quod clamat esse Jus suum de Dōno J. S. qui ipsam B. C. inde feoffavit Et in quod &c.*

Or thus where Husband and Wife are Joynt Purchasors of an Estate, *Quod clamat esse Jus suum de Dōno J. S. qui ipsam B. & p̄dictum D. quondam virum suum inde feoffavit Et in quod &c.*

But if Lands be given to the Wife and the Heirs of her Body, and of the Body of her Husband begotten, in this case the Husband hath a Joynt Estate with his Wife for Life, and the Writ shall be in this manner, *Quod clamat tenere sibi (the Wife) & heredibus de corpore suo, & de corpore predicti D. quondam viri sui ex eund ex dimissione J. S. &c.*

Or, *Quod clamat esse Jus suum ex dimissione quam J. S. inde fecit eidem B. & p̄dicto D. quondam viro suo & heredibus ipsius B. &c.*

But if the Wife claims to hold the Lands in Dower, then the Writ shall be thus, *Quod clamat esse dotem suam ex Dotacione D. p̄mi. (vel secundi) viri sui Et in quod idem A. non habet Ingressum nisi per p̄dictum D. p̄imum (vel secundum) virum suum (vel ipsius B.) qui illud ei dimisit &c.*

And

And if she holds the Lands for term of her Life by Lease, then the Writ shall be, *Quod clamat tenere ad vitam suam ex dimissione quam J. S. inde fecit eidem B. & p̄fato D. quondam viro suo ad vitam eorundem B. & D. &c.*

And a *Sur cui in vita* for the Heir of the Wife, where the Husband hath aliened her Lands in Fee, must be after this manner, *Precipe A. qđ iuste &c. reddat B. unum messuagium cum p̄tin in A. quod clamat esse Jus & hereditatem suam Et in quod idem A. non habet Ingressum nisi per C. quondam virum D. matris p̄dicti B. cuius heres ipse est, qui illud ei dimisit, cui ipsa D. in vita sua contradicere non potuit, ut dicit &c.*

And in the *Per and Cui* thus, *Quod clamat &c. Et in quod &c. nisi per C. cui D. quondam vir C. matris (amite, sororis, vel consanguineae) p̄dicti B. cuius heres ipse est, illud ei dimisit, cui ipsa D. in vita sua contradicere non potuit &c.*

But if it be in the *Post*, then after this manner, *Nisi post dimissionem quam D. quondam vir C. matris p̄dicti B. & Amite p̄dicti B. cuius heredes ipse sunt, cui ipsa C. in vita sua contradicere non potuit, inde fecit, ut dicunt, Et unde queritur &c. Et nisi &c.*

And Note, It appears by this Writ, That the Aunt and the Niece may joyn therein, upon Alienation made by the Husband, their common Ancestor, or upon Recovery had

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against the Husband, and the Wife who was the common Ancestor to them.

If the second Husband alien the Lands of the Wife, and he and the Wife dye, here the Issue between the Wife and the first Husband shall have a *Sur cui in vita* against the Alience, although the second Husband be alive, if he be not intituled to the Lands as Tenant by the Curtesie.

But if the second Husband be intituled as Tenant by the Curtesie, then the Issue of the first Husband shall not have a *Sur cui in vita*, during the Life of the second Husband.

And Note, That the Demise of Gift, alledged in a *Sur cui in vita*, is Traversable.

If the Husband and Wife do lose the Wife's Lands by default, she may (after her Husbonds death) have a *Cui in vita*, to recover the same, by the Stat. *W. 2. cap. 3.*

But if the Lands of the Wife be recovered by *Cessavit*, by default of the Husband, and the Wife surcease during the Espousals, if the Husband dyes, the Wife shall not have a *Cui in vita*, to recover the same.

If the Heir of the Wife claim an Estate Tail, after her death, he must bring a *For medon*, and not a *Sur cui in vita*.

In like manner a Writ of *Cui ante Divorcium* doth lye in case where the Husband aliens the Lands of the Wife, which she hath in Fee simple, Fee tail, or for Life, to a Stranger, and afterwards the Husband and Wife are divorced, then the Wife may have this Writ against the Alience, in the like nature as the

VVrit

Writ of *Cui in vita*, above-mentioned. The Form whereof is after this manner.

Precipe A. qđ iuste &c. reddat B. que fuit Uxor D. unum messuagium cum pertinē in B. quod clamat esse ius & hereditatem suam Et in quod idem A. non habet Ingressum nisi per predictum D. quondam virum ipsius B. qui illud ei dimisit, cui ipsa ante divorcium inter eos celebrat contradicere non potuit &c.

And this Writ lies in the *Per*, *Cui* and *Post*, as the Writ of *Cui in vita* doth.

And Note, That the Heir shall have a *Sur cui ante divorcium*, where the Wife dyes before the Action sued, as he might have had a *Sur cui in vita*, in the Cases above-mentioned.

But of an Estate Tail, the Heir shall not have *Sur cui ante divorcium*, but a Writ of *Forcedon in discender &c.*

Also, The Aunt and the Niece may joyn in this Writ, as they do in a *Sur cui in vita*.

A Writ of *Sine Assensu Capituli* lyeth for the Successor of a Bishop, Dean, Prebendary, or Master of any Colledge, or Hospital, after the discontinuance of the Predecessor, when they alien the Lands without the consent of the Chapter, Brethren, or those should joyn with them. And the Form thereof is thus, for a Bishop.

Precipe A. qđ iuste &c. reddat B. Episcopo Wigorn unum messuagium cum pertinē in B. quod clamat esse ius Ecclesie ipsius Episcopi Sancti Iohannis in B. Et in quod idem A.

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against the Husband, and the Wife who was the common Ancestor to them.

If the second Husband alien the Lands of the Wife, and he and the Wife dye, here the Issue between the Wife and the first Husband shall have a *Sur cui in vita* against the Alience, although the second Husband be alive, if he be not intituled to the Lands as Tenant by the Curtesie.

But if the second Husband be intituled as Tenant by the Curtesie, then the Issue of the first Husband shall not have a *Sur cui in vita*, during the Life of the second Husband.

And Note, That the Demise of Gift, alledged in a *Sur cui in vita*, is Traverisable.

If the Husband and Wife do lose the Wife's Lands by default, she may (after her Husbonds death) have a *Cui in vita*, to recover the same, by the Stat. *W. 2. cap. 3.*

But if the Lands of the Wife be recovered by *Cessavit*, by default of the Husband, and the Wife surcease during the Espousals, if the Husband dyes, the Wife shall not have a *Cui in vita*, to recover the same.

If the Heir of the Wife claim an Estate Tail, after her death, he must bring a *Forcedon*, and not a *Sur cui in vita*.

In like manner a Writ of *Cui ante Divortium* doth lye in case where the Husband aliens the Lands of the Wife, which she hath in Fee simple, Fee tail, or for Life, to a Stranger, and afterwards the Husband and Wife are divorced, then the Wife may have this Writ against the Alience, in the like nature as the

VVrit

Writ of **Cui in vita**, above-mentioned. The Form whereof is after this manner.

Precipe A. qđ iuste &c. reddat B. que fuit **Uxor** D. unum messuagium cum pertinē in B. quod clamat esse ius & hereditatem suam Et in quod idem A. non habet Ingressum nisi per predictum D. quondam virum ipsius B. qui illud ei dimisit, cui ipsa ante divorcium inter eos celebrat contradicere non potuit &c.

And this Writ lies in the **Per**, **Cui** and **Post**, as the Writ of **Cui in vita** doth.

And Note, That the Heir shall have a **Sur cui ante divorcium**, where the Wife dyes before the Action sued, as he might have had a **Sur cui in vita**, in the Cases above-mentioned.

But of an Estate Tail, the Heir shall not have **Sur cui ante divorcium**, but a Writ of **Forcedon in descender** &c.

Also, The Aunt and the Niece may joyn in this Writ, as they do in a **Sur cui in vita**.

A Writ of **Sine Assensu Capituli** lyeth for the Successor of a Bishop, Dean, Prebendary, or Master of any Colledge, or Hospital, after the discontinuance of the Predecessor, when they alien the Lands without the consent of the Chapter, Brethren, or those should joyn with them. And the Form thereof is thus, for a Bishop.

Precipe A. qđ iuste &c. reddat B. **Episcopo** Wigorn unum messuagium cum pertinē in B. quod clamat esse ius Ecclesie ipsius **Episcopi Sancti Johannis in B.** Et in quod idem A.

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non habet Ingressum nisi per C. cui D. quondam Episcopus Wigorn' Predecessor p'dict nunc Episcopi illud dimisit sine Assensu Capitali sui, ut dicit &c.

And for a Master of an Hospital thus,
Precipe A. qd iuste &c. reddat B. Custodi Hospitalis Sancte Caterine juxta Turrim London' unum messuagium quod clamat esse jus Hospitalis sui p'dict Et in quod idem A. non habet Ingressum nisi per D. quondam Custodem Hospitalis p'dict qui illud ei dimisit sine assensu & voluntate fratrum & soror' ejusdem Hospitalis ut dic' Et nisi &c.

But if for a Prebendary, then the Writ must be after this manner.

Precipe A. qd iuste &c. reddat B. Prebendario Prebende de C. in Ecclesia Divi Pauli London' unum messuagium cum p'tin' in D. quod clamat esse jus Prebende sue p'dict Et in quod idem A. non habet Ingressum nisi post dimissionem quam C. nuper Prebendarius Prebende p'dict nuper Predecessor p'dict Prebendarii sine licencia & voluntate Episcopi London' ac Decani & Capituli Ecclesie p'dict inde fecit p'fat A. ut dic' &c.

Process in Writs of Entry.

Note, The Process in this Writ is Summons, grand Cape and Petit Cape; and so it is of the other Writs of Entry above-mentioned.

Note,

Note, That a Prebendary hath a Fee-simple in his Prebend, and yet he may Enter upon the Alienation made by his Predecessor, as a Parson may upon an Alienation made by his Predecessor.

A Prebendary also may have a *Juris utrum* upon the Alienation of his Predecessor, by which it appears, that he hath not a greater Estate than a Parson; but yet it seems reasonable that he should have a *Sine Assensu Capituli*, because he, the Bishop and the Chapter, are but one Body in Law, although their Possessions are severed and divided amongst them, and every one of them by himself is incorporated to use an Action for his possession alone in his own Name.

And this Writ may be brought against one by divers Precipe's of Lands, in divers Towns, and upon dimises of divers Predecessors.

But if a Prebendary or Bishop be disseised, and afterwards he releaseth to the disseisor, this seems to be an Alienation, upon which he may have a Writ of *Sine Assensu Capituli*; for if the disseisor dye seised after the Release made, the Successor shall have no other remedy but this Writ, or a Writ of Right, &c.

But if the Disseisor doth not dye after the Release made, then the Successor may Enter upon him, notwithstanding his Predecessors Release; for no more shall pass by the Release, than he could of Right grant, &c.

Then, as to Writs of Entry brought upon an *Duster*, They are either upon an *Intrusion* or *Disseisin*.

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A VVrit of Intrusion lies, where Tenant for Life, in Dower, or by the Curtesie, dies seised, and afterwards a Stranger intrudes into the Lands, then he in the Reversion shall have this VVrit, the Form whereof is after this manner,

Precipe A. quod iuste &c. reddat B. unum Messuagium cum pertinentiis in C. quod clamat esse ius & hereditatem suam Et in quod idem A. non habet ingressum nisi per Intrusionem quam in illud fecit post mortem D. que fuit Uxor E. que illud tenuit in dote ex dotatione predicti E. quondam viri sui patris vel fratris predicti B. cuius heres ipse est ut dic &c.

And in the Ver thus,

Et in quod idem A. non habet Ingressum nisi per D. que illud ei dimisit post mortem E. que fuit Uxor F. qui illud tenuit in dote ex dotatione predicti F. quondam viri sui, &c.

Or thus in the Ver and Cui.

Et in quod idem A. non habet Ingressum nisi per D. cui E. illud dimisit qui se in illud intravit post mortem, &c.

But the Writ in the Post must be after this form ;

Et in quod idem A. non habet Ingressum nisi post Intrusionem quam D. in illud fecit post mortem E. que fuit Uxor F. que illud tenuit in dote ex dotatione predicti F. quondam viri sui fratris predicti B. cuius heres ipse est Et quod post mortem predicti E. ad prefat B. reverti debeat, ut dic Et unde queritur &c Et nisi, &c.

Note,

Note, That this Clause [*Et unde queritur*] shall be inserted in every Writ of Entry in the *Post*.

If a Woman recover Dower against him in the Reversion, or his Heir, and after dies seized thereof and a Stranger intrudes into the Land, he in the Reversion may have this VVrit, reciting the Recovery in this manner, viz.

In quod idem A. non habet Ingressum nisi per intrusionem quam in illud fecit post mortem D. que fuit Uxor E. que illud in Cur' nostra coram Justic' nostris apud Westm' per breve nostrum per Cons' ejusdem Cur' recuperavit ut dotem suam que eam attingebat de libero Tenemento quod fuit p'dicti E. quondam viri sui in eadem villa versus p'dictum B. &c.

Or thus ;

Verfus J. S. Patrem [vel alium Antecessorem] p'dicti B. cujus heres ipse est, ut dic' Et nisi, &c.

She may also have a VVrit of another form; where she recovers her Dower against the Heir of her Husband, and afterwards the Heir grants the Reversion to the said B. after which the Tenant in Dower dies seized, and a Stranger abates, here B. shall have a VVrit of Intrusion, reciting the whole matter, *de quo vide Reg. Orig.*

The Aunt and the Niece may joyn in a VVrit of Intrusion.

If

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If the Heir Assigns Dower to his Mother, and after commits Felony, by which the Lord claims the Reversion, and grants it in Fee to one, to whom the Tenant Attorns, and after that the Grantee of the Reversion hath Issue two Daughters, and dies, and one of the Daughters hath Issue, and dies, and then the Tenant in Dower dies, and a Stranger intrudes; in this Case the Aunt and the Niece shall joyn in a VVrit of Intrusion, which shall be after this kind of form, viz.

Precipe A. qđ iuste &c. reddat B. & C. sorori ejus, & D. & E. Fratri ejus unum Messuagium cum pertinentiis in F. in quod idem A. non habet ingressum nisi post Intrusionem quam G. in illud fecit post mortem H. que fuit Wro. I. que illud tenuit in dote ex dotacione p̄dicti I. quondam viri sui de L. patre p̄dicti B. & C. & avo p̄dicti D. & E. cuius heredes ipse sunt ex assignacione M. Capitulis Domini Feodi illius, de quo p̄dicti H. illud tenuit in dote ratione Felonie per N. filium & heredem p̄dicti I. facti ut dicitur Et quod post mortem p̄dicti H. ad p̄dicti B. C. D. & E. Reverti debet per formam assignacionis p̄dicti ut dic̄ Et unde queruntur, &c.

But upon an Intrusion after the death of Tenant by the Curtesie, the VVrit shall be thus,

Precipe A. qđ iuste &c. reddat B. unum Messuagium cum pertinentiis in R. quod clamat esse jus & hereditatem suam Et in quod idem A. non habet Ingressum nisi per intrusionem quam inde fecit post mortem D. qui illud tenuit per

per Legem Anglie post mortem C. quondam
Uxoris sue matris [vel Amice] p̄dicti B. cuius
heres ipse est ut dic̄ &c.

This VVrit may be also in the *Per*, in
the *Per* and *Cui*, and in the *Post*.

Also, the form of a VVrit of Intrusion for
him in the Reversion after the death of Te-
nant for Life, is after this manner, viz.

Precipe A. qđ iuste &c. reddat B. unum Mel-
suagium cum pertin̄ in M. quod clamat esse
suum & hereditatem suam Et in quod idem A.
non habet ingressū nisi per intrusionem quam
inde fecit post mortem C. cui p̄dict̄ B. [vel cui
D. pater, vel alius antecessor p̄dicti B.] cuius
heres ipse est, illud dimisit ad vitam ipsius C.
ut dic̄ Et nisi &c.

VVhich VVrit may be likewise in the *Per*,
and the *Per* and *Cui*, and in the *Post*; for
which see the Register.

But the Heir in Tail shall not have a VVrit
of Intrusion after the death of Tenant in
Dower, by the Curtesie or for Life, but a
VVrit of *Forcedon*; for this VVrit lies for
him who shall have the Reversion in Fee
simple, or for Life, and not for him that
shall have the Reversion for a Term of Years,
or in Tail; for this VVrit lies only for him
that hath the Freehold, after the death of
Tenant for Life, or in Dower, &c. And he
in Remainder shall have a VVrit of Intrusion
after the death of Tenant for Life.

And so the Assignee of an Assignee of the
Remainder shall have this VVrit.

And

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And if Lands be given to two and the Heirs of one of them, and he that hath the Fee dies, and afterwards the Tenant for Life dies; here the Heir of him in the Remainder shall have a Writ of Intrusion, the form whereof is thus;

Precipe A. qđ iuste &c. reddat B. unum Messuagium cum pertinē in K. quod clamat esse ius & hereditatem suam Et in quod idem A. non habet ingressum nisi per intrusionem quam inde fecit post mortem C. que fuit Uxor D. qui illud tenuit ad vitam suam ex dimissione quam K. inde fecit eidem C. & p̄fat D. quondam viro suo & heredibus ipsius D. patris p̄dict B. cuius heres ipse est ut dic̄ &c.

Writs of Right upon a Disseisin are when the Disseisin is done to the Demandant or his Ancestors, as a Writ of Entry in the nature of an Assise, called *de quibus*.

This Writ lies where one is disseised of any Lands, Tenements, or Rents, of which he hath an Estate in Fee, the form whereof is thus;

Precipe A. qđ iuste &c. reddat B. unum Messuagium cum pertinē in K. quod clamat esse ius & hereditatem suam de quo idem A. iniuste & sine iudicio disseisivit p̄dict B. infra triginta annos &c. ut dic̄ Et nisi &c.

But if the Demandant brings this Writ of the disseisin of his Ancestor, then it must be after this manner; viz.

Precipe

Precipe A. qđ iuste &c. reddat B. unum Mes-
suagium cum pertinē in B. quod clamat esse
suis & hereditatem suam Et de quo idem A. in-
iuste & sine iudicio disseisibit C. patrem p̄dicti
B. [vel alium Antecessorem p̄dicti B.]
cujus heres ipse est infra triginta annos &c. ut
dicit &c.

Or thus in the Ver,

Quod clamat &c. Et. in quod idem A. non ha-
bet ingressum nisi per C. qui illud ei dimisit
qui iniuste C. patrem [vel alium Antecessorem]
p̄dicti B. &c.

Or in the Ver and Cui thus;

Quod clamat &c. Et in quod idem A. non ha-
bet ingressum nisi per C. cui D. illud dimisit,
qui inde iniuste & sine iudicio disseisibit p̄dictum
C. patrem p̄dicti B. cuius heres ipse est, Or
Disseisibit p̄dictum B. &c.

But in the Post the Writ must be thus;

Quod clamat esse suis &c. Et in quod &c. nisi
post disseisinam quam D. inde iniuste &c. fecit
C. patri [or other Ancestor] p̄dicti B. cuius
heres ipse est &c.

And Note, That in whatsoever Case this
Writ is brought, it must allways be **Quod**
clamat esse suis & hereditatem suam, whether
it be of a Disseisin done to the Party himself,
or to his Ancestor.

And if Tenant for Life, or in Tail, be dis-
seised, they may have this VVrit, but the
VVrit for them shall not say, **Quod** clamat
esse suis & hereditatem suam, but they shall
be

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be put to declare of the special matter in their Counts.

And a Bishop, Master of a Colledge or Hospitall may have this VVrit in case where Disseisin is done to their Ancestors, whether it be of Lands or Tenements, or of a Rent, for which see the Register.

And the Aunt and the Niece may joyn in this VVrit upon a Disseisin done to the Father of the one, who is the Grandfather of the other.

This VVrit lies of a Disseisin done to the Demandants Ancestor, of a Gorse, or Fishpond, by the word Gurges; as, *Precipe A. qđ reddat B. unum Gurgitem, &c.* And in his Count he shall lay his Esplees in taking of Fishes, &c.

This VVrit also lies of a Passage.

And if a disseisor Enfeoffs the King, who Enfeoffeth another in Fee, the Disseisee shall have this VVrit against the Kings Feoffee, in the *Post*.

And if Tenant in Tail brings this VVrit upon a Disseisin done to himself, in his Count he may say. That he was seised in his Demesne as of Freehold, without shewing his particular Estate, or how his Estate did commence; or he may count upon the special matter, and shew the Gift, &c.

And this VVrit lies of Common, *sc. qđ reddat pasturam ad decem boves &c.*

But one shall not have a VVrit of Entry in the *Post*, where he may have it within the Degrees, *sc.* in the *Per*, or the *Per* and *Cui*.

And

And if the Father be disseised of a Marsh, which is afterwards turned into a Meadow, and the Father dies, the Heir may have this VVrit of the Meadow, and demand it by that name, and not by the name of Marsh.

So, if there be Land covered with VVater whereof a disseisin is made, and the Disseisor converts it into Meadow, the Disseisee shall have this VVrit, and demand it thereby as Meadow.

In like manner, if I be disseised of a piece of Land, and the Disseisor builds a House upon it, I may suppose in my Writ to be disseised of the House, &c. *Tamen quere.*

Also this VVrit lies of the disseisin of any Office.

And Note, That he who comes in by Recovery, or by Election, or Succession or Disseisin into any Land, the VVrit shall be always brought against such person in the *Post.*

VVrits that shew the Demandants Title, are meer Possessory, or in the Right.

Meer Possessory are those which are brought by the next Heir upon an Abatement after the death of an Ancestor (other than his Father, Mother, Brother Sister, Uncle, Aunt, Nephew, Niece; for upon an Abatement after the death of any of these, an Assise of Mortdantcestor lieth) seised in his Demesne, the day of his death, as of a Fee simple Estate, though he were disseised the very same day, and so died not seised at all.

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Of which nature are a VVrit of Ayel, after the death of the Grandfather, or Grandmother: Of Besayel, after the death of the Great Grandfather, or Great Grandmother: Of Cosinage, after the death of the Great Great Grandfather, or Grandmother, or any other collateral Cosin, as the Great Great Grandfathers Brother.

In the Right, are such VVrits as are to disprove the Tenants Right, and are VVrits of Right in their nature, which shew how the Demandants Right doth accrue; and these are either a Formedon, or a VVrit of Escheat, or a VVrit of Dower, *unde nichil habet*.

A Formedon is a *Preceptum quod reddat*, wherein the Demandant entitleth himself to an Estate Tail, in the Form of a Gift.

Of Formedons there be three kinds, two at the Common Law, *viz.* a Formedon in Remainder, and a Formedon in Reverter, and the other being a Formedon in Descender, which is given by the Statute of *Westm.* 2. *Cap.* 1.

A Formedon in Remainder lies where Lands are given to one in Tail, the Remainder to another in Tail, and afterwards the first Tenant in Tail dies without Issue of his Body, and a Stranger Abates, and deforces him in the Remainder, in this Case he in the Remainder in Tail, or his Heir may have this VVrit.

Likewise, if the first Tenant in Tail alien in Fee, and dies without Issue of his Body begotten, he in the Remainder in Fee may have this VVrit to recover his Estate.

Also

Also, if Lands are given to one for Life, the Remainder to another, and to the Heirs of his Body begotten, and the Tenant for Life dies, and a Stranger abates, and de-forceth him in the Remainder, so that he cannot Enter, in this Case he in the Remainder, or his Heir, who is deforced, may have this VVrit to recover the Land.

So, if Lands be given in Tail to one, the Remainder in Fee to another, and the first aliens in Fee, in Tail, or for Life, and dies without Issue, here the other or his Heir may have this VVrit to recover the Land.

So, if I demise Lands to one for Life, the Remainder to another in Fee, and the Tenant for Life aliens in Fee, in Tail, or for Life, and dies, or if he dies seised and a Stranger abates into the Land, and deforces him that ought to have the Remainder, in this Case, he in the Remainder or his Heir shall have this VVrit.

And notwithstanding a Formedon in Remainder is not given by the Statute of *Westm. 2. Cap. 1.* in exprefs words, (a Formedon in discender being only therein mentioned) yet it was never doubted, but that if a Man had made a Lease for Life to one, the Remainder in Tail to another, he in the Remainder in Tail should have this VVrit, after the death of Tenant for Life, if he was deforced of the Land, and this is by the Equity of that Statute; for no Formedon in Remainder is given by any other Statute, and therefore it seems to be by the Equity of this, though there be some that do make doubt thereof.

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The form of the VVrit for him in the Remainder in Fee, after the Estate Tail is determined.

Precipe A. qđ iuste &c. reddat B. unum Mesuagium cum pertinentiā in B. quod C. dedit D. & heres de corpore suo exequi ita qđ si idem D. sine herede de corpore suo exequi obierit pđictū Mesuagium cum pđictā pđict B. & heredibus suis remaneret Et quod post mortem pđict D. pđict B. remanere debet per formam donationis pđictice Co qđ pđict D. obiit sine herede de corpore suo exequi ut dic' & nisi &c. tunc &c.

And the Writ for the Heir of him in the Remainder in Tail must be after this manner, viz.

Et quod post mortem pđict D. & B. pđict C. filio & herede pđict B. remanere debet per formam &c. Co qđ pđict D. obiit sine herede de corpore suo exequi ut dic' &c.

And against the Abator of the Lands of him in the Remainder in Tail, after the death of Tenant for Life, the VVrit shall be thus;

Precipe A. qđ iuste &c. reddat B. unum Mesuagium cum pertinentiā in B. quod C. dedit D. ad vitam ipsius D. ita qđ post mortem ejusdem D. pđict Mesuagium cum pertinentiā C. & heredibus de corpore suo exequi remaneret Et quod post mortem pđictorū D. & C. pđict B. filio & heredi ejusdem C. remanere debet per formam donationis pđictice &c.

And for the Grantee in Reversion in Fee Tail, after the death of Tenant for Life, the VVrit shall be after this manner, viz.

Quod

Quod F. dedit S. ad vitam ipsius S. Et quod postmodum idem F. concessit p̄fat. L. & D. quondam viro suo habendum post mortem p̄dicti S. p̄fat. D. & L. & heredibus de corporibus ipsorum D. & L. exeunt Et quod post mortem p̄dicti S. p̄fat. L. remanere debet per formam concessionis p̄dictae &c.

One may have several Precipe's in one VVrit of Formedon in Remainder, as appears by the Case ensuing; where A. gave a Manor (excepting the Rent of 13 s. 4 d.) to B. and J. his VVife, and to the Heirs of their two Bodies begotten, the Remainder to one J. in Fee; after which B. aliens a House and an Acre of Land to one person, and three Acres to another, and two Acres to another in Fee; and the residue of the Manor (excepting the said Rent of 13 s. 4 d.) he aliens to W. and after that the Husband and VVife dye without Issue between them, and he in the Remainder brings his VVrit against the Alienee in manner following.

Precipe C. qđ iuste &c. reddat V. Panerium de C. cum pertinenti Exceptis uno Mesuagio sex Acris terre & tresdecun solidat & quatuor denar reddit in eodem Panerio Et p̄cipe F. qđ iuste &c. reddat eidem V. unum Mesuagium & viginti Acras terre cum pertinenti in C. & p̄cipe S. quod iuste &c. reddat eidem V. duas Acras terre cum pertinenti que A. dedit D. & V. uxori eius & heredibus de corporibus ipsorum D. & V. exeuntibus Ita qđ si iidem D. & V. sine heredibus de corporibus eorū D. & V. exeunt obierint p̄dict. Mesuagium sex Acre terre & Panerium

nerium, exceptis Mesuagio sex Acris terre & redditu p̄d̄ p̄fat̄ H. & heres suis remanerent &c.

Where Lands are given to one for Life, who dies, and the Reversion discends to his Brother, who also dieth, and the Reversion cometh to his two Sisters, who make Partition between them, and the one Copartner grants the Reversion of her Moiety to one and his Wife, and to the Heirs of their two Bodies begotten; then Tenant for Life dies, and a Stranger Enters and Abates into the Land, in this Case the Husband and Wife that are in the Remainder may have a Writ for Recovery of the Land, after this manner, viz.

Precipe S. qđ iuste &c. reddat L. & B. Uxor ejus unum Mesuagiū & viginti Acras terre cum p̄t̄n̄ in B. que unacum aL uno Mesuagio & viginti Acris terre cum p̄t̄n̄ in eadem Villa M. dedit M. ad totam vitam suam Et quas R. soror & una heredi M. fratris & heres p̄dicti M. Cui quidem R. Reversio p̄dicti unius Mesuagii & viginti acrarū terre assignata fuit in purpartem suam ipsam de p̄dictis duobus Mesuagiis & quadraginta Acris Terre per partitionem inter ipsam & B. sororem & alteram heres p̄dicti M. inde factam post mortem p̄dicti M. contingendū concessit p̄fat̄ M. & heredibus de corporibus ipsorū M. & A. exeundū post mortem ejusdem M. p̄fat̄ M. & A. remanere debent per formam concessionis p̄dictę ut dic̄ Et nisi &c.

If a Remainder be given to two and their Heirs, and one of them dies, and the
other

other survives, and afterwards dies, his Heir shall have a Formedon in Remainder, as Heir of him, without saying in the Writ, That he survived the other Joynt-Tenant.

Note, the Demandant ought to shew his Deed to satisfy the Tenant how he is Intitled to the Remainder, if the Tenant prays Oyer thereof, but he need not make any mention of it in his Count.

Note also, That if he who hath the Remainder, or his Heir, be once seised of any Lands by force of the Remainder, he shall never afterwards have a Formedon in Remainder for that Land, but a Formedon in the Discender, because that Remainder hath been once executed.

Neither can any Tenant have a Formedon in the Discender or in the Remainder, where he hath been once in Possession by virtue of the Tail, or by force of that Remainder; for after that he hath Possession of the Land by force of the Tail, or of the Remainder, if he be ousted, he shall have an Assise of Novel Disseisin, or a Writ of *Quibus* in nature of an Assise.

And if the Remainder be once executed in the Writ of Formedon in the Discender, he shall never say any thing of that Remainder, but in that case shall be put to bring a general Writ of Formedon in Discender.

A Formedon in Reverter lyes for the Donor, after the Issue in Tail determined; as at the Common Law, if the Donee alien before Issue had, and after dye without Issue; or if he have Issue, and after he or his Issue dye without Issue.

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But otherwise, if he had Issue, and after that had aliened and died without Issue.

If I give Lands to one in Tail, and the Donee or his Heirs dye without Issue of their Bodies, in this case, I, or my Heirs may bring a Writ of Formedon in Reverter for recovery of those Lands.

So, If I give Lands to one in Tail, and after grant the Reversion in Fee to another, and the Donee in Tail dies without Issue of his Body, here the Grantee of the Reversion shall have this Writ to recover the Lands; but if he grants the Reversion to another in Tail, or for Life, and the Donee dies without Heir of his Body, the Grantee of the Reversion shall have a special VVrit for recovery of the same; for which see Formedon in Remainder.

The VVrit for the Heir of the Donor is after this manner, viz.

Precipe A. qđ iuste &c. reddat B. unum Messuagium cum pertinentiis in B. quod C. pater p̄dicti B. cuius heres ipse est dedit C. & J. uxori eius & heredibus de eorum corporibus exeunt Et quod post mortem p̄dictorum C. & J. ad p̄fat B. reverti debet per formam Donationis p̄dictae Co qđ p̄dicti C. & J. obierunt sine heredibus de corporibus suis exeunt ut dic̄ Et nisi &c.

If I give Lands to one in Tail, the Remainder to another in Tail, and the first Tenant in Tail dies without Issue, and the second Tenant in Tail in the Remainder goes beyond the Seas, and becomes a Papist, and Enters into a Religious House, and is a Monk professed

feised; in such case I or my Heir may have a Writ of Formedon in the Reverter for Recovery of the said Lands.

So, if C. gives Lands to C. and F. his Wife, and the Heirs of their two Bodies begotten, and C. hath Issue G. and B. and dies, and G. also dies, and F. dies without Issue of their Bodies, &c. in this Case B. shall have a Formedon in the Reverter, and the Writ shall be after this manner,

Precipe A. qđ iuste &c. reddat B. unum Messuagium cum pertinentiis in R. quod C. debet C. & F. uxori ejus & heredibus de corporibus eorumdem C. & F. exequi Et quod G. filius & heres predicti C. frater predicti B. cuius heres ipse est post mortem predicti C. concessit H. ad totam vitam suam post mortem predictae F. habens Et quod post mortem predictorum F. & H. ad placitum B. reverti debet per formam Donationis & Concessionis pđ Co qđ pđ C. & F. obierunt sine heredibus de corporibus suis & unicibus &c.

But if H. had survived F. and Entred, and been seised of the Lands for his Life, and died, then B. could not have had a Formedon in Reverter, but an *Ad terminum* qui preterit, for recovery thereof.

So, if H. had not Entred into the Lands after the death of F. then B. might have had a Formedon in Reverter; but if H. had Entred after the death of F. and aliened in Fee, then B. must have had an *In consimili casu*, living H. and after his death *Entre ad Communem Legem*.

And if F. lets Lands to H. for Life, having

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ving Issue a Son and Daughter, and dies, and the Son grants the Reversion to *A.* and the Heirs of his Body begotten, and the Tenant for Life dies, and the Tenant in Tail dies without Issue of his Body begotten, and then the Son (who was the Donor) dies, in this Case the Daughter shall have a Formedon in the Reverter, and the Writ shall be after this manner,

Precipe A. qđ iuste &c. reddat B. unum Mesuagium cum ptin in B. quod F. dedit P. ad totam vitam suam Et qđ T. filius & heres p̄dicti F. frater p̄dicti A. cuius heres ipse est, concessit A. habend, Et post mortem ipsius P. eidem A. & heredibus de corpore suo exeuñ Et quod post mortem p̄dicti P. & A. p̄fat B. reuerſi debet per formam Donationis & Concessionis p̄dict Co qđ p̄fat A. obiit sine hered de corpore suo exeuñ ut dic̄ &c.

If one gives Lands to another in Tail, who hath Issue two Daughters, and one of the Daughters hath Issue a Daughter *C.* and the other Daughter hath Issue a Daughter *D.* and *C.* hath Issue *B.* and all the Daughters dye, and *B.* dies without Issue of her Body; in this Case, the Donor, or his Heir shall have a Writ of Formedon in the Reverter, according to this form;

Et quod post mortem p̄dict F. & G. & R. & W. filiarum & heredum eorundum F. & G. & B. &c p̄ R. & hered eorundem R. & W. ad p̄fat B. reuerſi debet per formam &c. Co qđ p̄dict B. filius p̄ R. obiit sine herede de corpore suo exeuñ &c.

If

If I give Lands to one in Tail, who hath Issue, and dies, and the Issue dies without Heir of his Body, before Entry into the Lands, I may sue out a Formedon in Reverter, supposing that the Donee died without Issue of his Body begotten, because the Issue was not in being at the time of the Writ purchased; but I cannot have a Writ of Formedon in Reverter of the seisin of the Issue, because the Issue died before he could have seisin of the Lands.

Note, in this Writ the Demandant must bind the Esplees in the Count, as well in the Donee, as the Donor; and the younger Brother must mention his eldest Brother in the Count, if the Eldest Brother out-live the Father, because he shall hold the Estate though he was never seised thereof; as where the Donor hath Issue two Sons, and dies, and the Eldest Son dies before he Enters into the Lands.

So the youngest Son ought to mention the eldest Brother in the Writ, because he was once Heir to the Donor; but where the eldest Son dies before his Father, the youngest need not name him in his Writ, as Heir to his Father, because he never was *de facto* Heir to his Father. But *Secus* in a Writ of Right, for there the eldest Son shall be named in the Count, notwithstanding he happen to dye in the Life-time of his Father, because he might by possibility have held the Estate, and been Heir to his Father.

A Formedon in Discender is a Writ, given by the Statute of *West. 2. Cap. 1.* and lies where
one

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ving Issue a Son and Daughter, and dies, and the Son grants the Reversion to A. and the Heirs of his Body begotten, and the Tenant for Life dies, and the Tenant in Tail dies without Issue of his Body begotten, and then the Son (who was the Donor) dies, in this Case the Daughter shall have a Formedon in the Reverter, and the Writ shall be after this manner,

Precipe A. qđ iuste &c. reddat B. unum Meluagium cum ptin in B. quod F. dedit P. ad totam vitam suam Et qđ T. filius & heres p̄dicti F. frater p̄dicti B. cuius heres ipse est, concessit A. habend, Et post mortem ipsius P. eidem A. & heredibus de corpore suo exeuñ Et quod post mortem p̄dicti P. & A. p̄fat B. reuerſi debet per formam Donationis & Concessionis p̄dict Co qđ p̄fat A. obiit sine hered de corpore suo exeuñ ut dic &c.

If one gives Lands to another in Tail, who hath Issue two Daughters, and one of the Daughters hath Issue a Daughter C. and the other Daughter hath Issue a Daughter D. and C. hath Issue B. and all the Daughters dye, and B. dies without Issue of her Body; in this Case, the Donor, or his Heir shall have a Writ of Formedon in the Reverter, according to this form;

Et quod post mortem p̄dict F. & G. & R. & B. filiarum & heredum eorundum F. & G. & B. sit p̄d R. & hered eorundem R. & B. ad p̄fat B. reuerſi debet per formam &c. Co qđ p̄dict B. filius p̄d R. obiit sine herede de corpore suo exeuñ &c.

If

If I give Lands to one in Tail, who hath Issue, and dies, and the Issue dies without Heir of his Body, before Entry into the Lands, I may sue out a Formedon in Reverter, supposing that the Donee died without Issue of his Body begotten, because the Issue was not in being at the time of the Writ purchased; but I cannot have a Writ of Formedon in Reverter of the seisin of the Issue, because the Issue died before he could have seisin of the Lands.

Note, in this Writ the Demandant must bind the Esplees in the Count, as well in the Donee, as the Donor; and the younger Brother must mention his eldest Brother in the Count, if the Eldest Brother out-live the Father, because he shall hold the Estate though he was never seised thereof; as where the Donor hath Issue two Sons, and dies, and the Eldest Son dies before he Enters into the Lands.

So the youngest Son ought to mention the eldest Brother in the Writ, because he was once Heir to the Donor; but where the eldest Son dies before his Father, the youngest need not name him in his Writ, as Heir to his Father, because he never was *de facto* Heir to his Father. But *Secus* in a Writ of Right, for there the eldest Son shall be named in the Count, notwithstanding he happen to dye in the Life-time of his Father, because he might by possibility have held the Estate, and been Heir to his Father.

A Formedon in Discender is a Writ, given by the Statute of *West. 2. Cap. 1.* and lies where
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one gives Lands to another, and the Heirs of his Body begotten; or to a Man and his Wife, and the Heirs of their Bodies begotten, by which Gift they are seised, and afterwards he, or they, alien those Lands, or are disseised of the same and dye, in this Case, the Heir shall have this Writ for Recovery thereof against the Tenant of the Lands, or Pernor of the Profits thereof, but the Writ against the Pernor of the Profits is given by the Statute of 1 H. 7. Cap. 1.

And the Son and Heir, or the Daughter may have a Writ of Formedon in Discender of the Profits apprender in any Lands or Tenements, or issuing out of the same; as of a Rent granted to one, and the Heirs of his Body begotten, issuing out of any Lands or Tenements; in which Case, if the Donor alien the Rent, or is disseised thereof, and dies, his Heir, either Son or Daughter, may have this Writ to recover the Rent.

Or, if one grants the moiety of the Profits of a Mill to another, and his Heirs of his Body begotten, and the Donee dies, and his Heir is disseised of the Profits, in that Case the Heir may have this Writ for Recovery thereof, after this form;

Precipe A. qđ iuste &c. reddat B. medietatem exituū pbeniend de uno Molendino aquatico ventricico ipsius A. in B. quam D. pater ipsius A. dedit C. patri ipsius B. cuius heres ipse est, & heredibus de corpore suo exeuū Et que post mortem ipsius C. p̄fat B. & heredibus de corpore suo exeuū discendere debet per formam donationis p̄dicte Et nist &c.

So

So if I grant pasture for ten Beasts, or forty Sheep, and the Donee dies, and his Heir is disseised of the same, he may have this Writ for Recovery thereof in this manner,

Precipe A. qđ iuste et. reddat B. pasturam ad decem Boves [or ad quadraginta oves] in quadraginta Acres terre in B. quam et.

But if I grant Common of Pasture to one, and the Heirs of his Body begotten, for his Beasts, and the Donee dies, and his Heir is disseised of it, the Heir cannot have this Writ for Recovery of the Common, but shall be driven to his *Quod permittat* for the same, in the nature of a Writ of Formedon, and shall declare specially upon the Gift and other matter.

Note, this Writ of Formedon in Descender is an Action Ancestrel, for he that is seised by force of the Tail, if he be disseised, or put out of the Land, he shall have an Assise of Novel Disseisin, or Trespass for the same, at his Election, but not Formedon.

And what shall be said a Gift in Tail, and what shall not, consult *Littleton's Tenures*, and the Lord *Cokes Commentaries* thereupon; the Abridgment of *Brook*, *Fitzherbert*, *Rolls*, *Hughes* and *Sheppard*; but for the Forms of Writs relating to the same, see the *Register of Writs Original*.

And, where one grants Lands or Tenements to a Man and his Wife, and the Heirs of their Bodies begotten, and the Donor dies, and the Donees have Issue of their Bodies, and dye, and a Stranger Enters into the

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the Lands and disseiseth the Heir; in this Case the Heir may have a Formedon in Discender for Recovery of the same, and the VVrit shall be thus,

Precipe A. qđ iuste &c. reddat B. unum Messuagium & quadraginta acras terre cum pertinentiis in R. que C. dedit D. & E. Uxor ei & heredes de corporibus ipsorum D. & E. exequi Et que post mortem pđ D. & E. pfat B. filio & heres pđcor D. & E. discendere debent per formam donationis pđcđ ut dic' Et nisi &c.

And mention ought to be made in a Writ of Formedon in Discender of every person that hath been seised by force of the Tail, to name him Son and Heir in the same.

But where any of the Heirs in Tail were not seised by force of the Tail, but outlived his Father, and died before his Entry into the Lands, or had seisin thereof, in that Case there will be no occasion to name him Heir in the Writ, for there the Title of Son only will serve.

In like manner it is always necessary to make the Demandant Cosin and Heir, or Son and Heir to him who was last seised by force of the Tail, according as the Case is; and the surest way for the Demandant, is, for him to give the Title of Son and Heir to every Man he names in the VVrit, notwithstanding he was never seised by force of the Tail, for it matters not whether they were seised or not, provided they be named Heirs in the VVrit.

To

To which purpose, if Tenant in Tail has Issue two Sons, and dies, and a Stranger Enters by abatement into the Lands, and the Eldest Son dies before his Entry into the same, here the youngest Son shall have his VVrit of Formedon in the Discender, without naming the eldest Son heir to his Father in the VVrit, but only Son, because he only held the Estate, and never had seisin of the Lands.

But if the eldest Brother had Entred into the Lands, and been sometime seised thereof, and had died without Heir of his Body ; in that Case the younger Son, as his Brother and Heir ought to name the eldest Brother in his VVrit, Son and Heir to his Father, and to make himself Brother and Heir to him.

If Tenant in Tail hath Issue two Daughters, one of which hath Issue a Son, and dies, and the Tenant in Tail dies, and a Stranger abates ; in this Case, the Daughter who survives, and the other Daughters Son shall together have a VVrit of Formedon in Discender, after this manner ;

Precipe A. qđ iuste &c. reddat B & C. Patnerid de S. cum pertind in B. quod D. debet C. & F. & heres de eoz corporibus exeund Et quod post mortem pđ C. & F. unius filiarum ejusdem C. pfať B. alteri filiaz pđict B. filio pđict F. & consanguineo & heres pđict C. discendere debet per formam &c.

So, if Tenant in Tail hath Issue two Sons and dies, and the eldest Son Enters and hath Issue and dies, and his Issue Enters, and dies without Issue of his Body ; in this Case the younger

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younger Son, as Issue in Tail, shall have a VVrit of Formedon in Discender, in case he be disseised of the Land, the Form whereof is thus,

Precipe &c. Et quod post mortem p̄dicti D. & E. filii & heredes ejusdem D. & F. filii & heredes ejusdem E. p̄fat. B. filio p̄dicti D. & consanguineo & heredi p̄dicti F. discendere debet &c.

And if one gives Lands to a VVoman, and the Heirs Males of her Body, and of the Body, of R. her Husband to be begotten, there if the Wife dye, and a Stranger Enters into the Lands by Abatement, her Heir Male begotten by R. her Husband, shall have a VVrit of Formedon in Discender in this manner, viz.

Quod C. dedit D. que fuit Uxor R. & heredibus masculis de corpore ipsius D. & p̄fat. R. quondam viri sui ex eund. Et quod post mortem p̄dicti D. p̄fat. M. filio & heredi ejusdem D. de corpore suo & corpore p̄dicti R. p̄creat discendere debet &c.

And if Lands be given to R. and the Heirs he shall beget of his first VVife, then the VVrit shall be after this manner,

Quod M. dedit R. & heredibus quos idem R. de prima Uxore sua procrearet, Et quod post mortem p̄dicti R. & A. filie C. quam primo duxit in Uxorem p̄fat. J. filio & heredi ejusdem R. de p̄fat. A. prima Uxore sua p̄creat discendere debet &c.

Or,

Or, if Lands be given to a VVoman, by one, and to the Heirs which he himself shall beget on her Body, and they have Issue two Daughters, and one of the Daughters hath Issue a Daughter, and dies, and the Donor and Donee dye, in this Case the Aunt and the Niece may have a VVrit of Formedon in Discender for Recovery of the Lands, if they be disseised thereof, the Form whereof is thus,

Precipe A. qđ iuste &c. reddat B. & C. unum Mesuagium cum p̄tin in A. quod R. dedit M. & heredibus quos idem A. de corpore ipsius M. procrearet, Et quod post mortem p̄dictę M. & D. unius filiarę ejusdem M. de corpore suo per p̄fat A. procreat & D. alterius filiarę ejusdem M. de corpore suo per p̄fat A. procreat & J. filii p̄dictę D. & consanguinei & heredes ejusdem M. p̄fat B. & C. discendere debet p̄ formam donationis p̄dictę, ut dic̄ &c.

Or, if I give Lands to one, and his VVife, and the Heirs of their Bodies, who have Issue a Son, and dye, and the Son is seised, and has Issue three Daughters, and they have Issue, and dye in the Life-time of their Father, and one of the three Daughters hath Issue and dies in the Life-time of her Grandfather, and then the Father of the three Daughters dies, in this Case the Coparceners of the three Daughters shall have a VVrit of Formedon in the Discender, in this manner;

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Et quod post mortem p̄dicti F. & G. & A. filii & heredis earundem F. & G. & B. P. & L. filiarū p̄dicti A. & T. filie p̄dicti P. p̄fat B. filie p̄dicti B. & L. fil p̄dicti L. & A. alteri fil p̄dicti T. Consanguinū & heredibus p̄dicti A. discendere debet p̄ formam &c.

So, if one gives Lands to S. and H. and the Heirs of the Body of S. to be begotten, and S. hath Issue four Daughters, and dies, and afterwards one of his Daughters dies, H. likewise dies, and after that another of the Daughters of S. dies before that they have had any Possession of the Lands, and the other two Daughters survive and are disseised of Lands; in this Case, the two surviving Daughters may have a VVrit of Formedon in Discender for Recovery of the said Lands.

Also, if the Reversion of Tenant in Dower be granted to one in Tail, and he is seised of the Lands by force of the Gift, after the death of Tenant in Dower, and he hath Issue and dies, and the Issue Enters, and hath Issue a Daughter, and dies, after which a Stranger Enters by Abatement into the Lands; here the Heir of the Issue of Tenant in Tail shall have a Formedon in Discender for the Recovery of the same.

So, if I let Lands for Life, and after that grant the Reversion in Tail, and Tenant for Life dies, and a Stranger Enters by Abatement into the Lands; in this Case, the Grantee of the Reversion shall have a VVrit of Formedon in the Discender for Recovery thereof.

Or,

Or, if one demiseth Lands to a Man for Life, and afterwards grants the Reversion by Fine to a Man and his Wife, and the Heirs which he shall beget on her Body, and the Tenant for Life dies, and the Husband and Wife Enter, and are seised by force of the Tail, and die, and a Stranger Enters by Abatement into the Lands; in this Case the Heir shall have a Writ of Formedon in the Discender for Recovery thereof.

There is also another Writ of Formedon in Discender, which lies properly for Coparceners, as where Tenant in Tail is seised of Lands or Tenements, and hath Issue several Daughters, and dies, and the Daughters after his death make Partition among themselves of the Lands and Tenements descended to them, after which one of the Coparceners aliens the Part allotted to her by the Partition, and dies; in this Case her Heir may have this kind of Writ of Formedon in Discender.

Also, if there be divers Brothers Tenants in Tail of Lands in Gavel-kind, who make Partition of the same among themselves, and one of them aliens his part of the said Lands, and dies, his Heir may have this Writ for Recovery thereof.

So, if two Coparceners are Tenants in Tail, by descent from their Father or Mother, and they make Partition among themselves, and one of them hath Issue and dies, his Heir may have this Writ.

Also, this Writ lies of a Moiety in some special Cases, as where there be two Coparceners, Daughters of Tenant in Tail, who

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make Partition of the Lands among themselves, and one of them dies without Issue, and the other aliens the Lands, and hath Issue, and dies; here the Issue of her that has Issue, may have this Writ of all the Land, after this manner,

Precipe C. qđ iuste &c. reddat C. sex Mesuagla centū & quadraginta acras terre octoginta acras prati & ducentas acras pasture cum p̄tīd in B. que M. dedit B. & heredibus de corpore suo exēd Et que post mortem p̄dict B. & R. filie & unius heredē ejusdem B. que medietatem p̄dict tenementorū cum p̄tīd tenuit in purpartem suam & C. filie & alterius heredē p̄dict B. que alteram medietatem eorundem tenementorum tenuit in purpartem suam p̄ Partitionem inde inter eas factam que quidem C. p̄dictam medietatem p̄fat R. contingend post mortem ipsius R. ut soror & heres ipsius R. tenuit p̄fat C. filio & heredi p̄dict C. descendere debet p̄ formam &c.

And the reason why this Writ is maintainable, is because by the death of one of the Sisters, without Issue, the Partition in effect is annull'd, so that the other Coparcener shall have the Lands as Heir in Tail.

There is also another Writ of Formedon in Discender, called *Insimul Tenuit*, which lieth for a Coparcener or Heir in Gavel-kind of Lands Intayled, where they are held without Partition, in Coparcenery, and one of the Coparceners aliens his part to a Stranger in Fee, and dies without Issue, or hath Issue and dies, or dies seised, and hath Issue, and a Stranger

a Stranger disseiseth the Issue, or the Issue ousts the other Coparcener; in these Cases the Issue, or he who is Heir to the Tail of those Lands may have this Writ against the Stranger, or the other Coparcener who deformed him of the Lands.

Likewise, one Coparcener may have an *Insimul Tenuit* against a Stranger, upon the possession of his Ancestor, without naming the other Coparcener, who hath his part in possession.

And where a VVrit of Formedon in Descender is brought by one upon the seisin of his Brother, and as his Heir, he need not say in the VVrit, That his Brother died without Issue.

But it is otherwise where one claims an Estate in Tail, as Cosin and Heir to any of his Ancestors, for there he ought to set forth in his VVrit, how he is Cosin and Heir to him, and make himself Heir to him who was last seised.

If Lands that are intailed descend to two Coparceners, and one of them Enters into the whole, and the other hath Issue and dies, and he that Enters into the whole dies without Issue; in this Case, the Issue of the other Coparcener shall have several VVrits of Formedon, one of the seisin of his Grandfather, but without the Clause of *Insimul Tenuit*, &c. because his Mother was never seised; but of the other Moiety of the seisin of his Aunt, he shall say *Quod Insimul Tenuit* with his Mother, for that was a seisin to her, if she would.

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So, if one Coparcener Enters into the whole, after the death of her Ancestor, and aliens in Fee, and dies without Issue, the other Coparcener may by her Formedon demand her Moity, as Heir to her Father, and the other Moity as Heir to her Sister.

If Heirs in Tail of Lands in Gavel-kind bring a Formedon in Discender, the Writ shall be in Common Form, as if the same had been brought by Sisters that are Coparceners; but in the Count or Declaration, they are obliged to set forth the Custom.

And Note, That a Formedon may be brought of a Gorse, but not of an Advowson.

If Tenant in Tail be indebted to the King in his *Exchequer*, and dies, and his Heir Enters, and after that is distrained for his Fathers Debt, in the intailed Lands; in this Case, if his Fathers Executors have Affets, or the Father had other Lands in Fee-simple, which he aliened to others, there the Heir in Tail may have a special Writ to the Treasurer and Barons of the Court of *Exchequer*, reciting the Case, and commanding them in the Kings Name to inquire into the same, and if they find it to be true, to surcease charging his intailed Lands.

But if the Heir, or the other Ter-tenants be not able to pay the Debt, then the Heirs intailed Lands shall be charged with the payment thereof; because, as some have said, The King is not bound by the Statute of *Westm. 2. Cap. 1. de Donis conditionalibus*, but is in the like capacity as he was in before the same Statute was made.

So,

So, if one aliens his Lands in Fee, and afterwards becomes indebted to the King, if the Alienee be distrained for that Debt, he may have a special Writ, as above, for discharge of his Lands so purchased as aforesaid.

In like manner, if one be distrained for a Debt or Duty owing to the King, as Executor to, or Surety for the Kings Debtor, he may have the like VVrit directed to the said Treasurer and Barons, to inquire into the matter, and do him Right, &c.

There is also a *Precept quod reddat*, called a VVrit of Escheat, and lies where a Tenant in Fee-simple holds of any other Lord, and dies seised, without Heir general or special, in this Case the Lord may have this VVrit against him that is Tenant of the Lands after the death of his Tenant.

And by this VVrit he shall recover the Lands, because he shall have them in lieu of his Services.

But if Tenant in Tail dies without Heir, he in the Reversion shall not have this VVrit, but a Formedon in the Reverter.

But if one be Tenant in Tail, the Remainder to his Right Heirs, and he dies without Heir, in that Case, the Lord of whom the Lands are holden, shall have this VVrit, because the Tenant in Tail was Tenant to the Lord, for the Fee-simple which he had in the Lands.

But if one be Tenant for Life, the Remainder to a Stranger, and his Heirs in Fee, and he in the Remainder dies without Heir, and Tenant for Life also dies, in that Case

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the Lord shall have this VVrit, because Tenant for Life was Tenant to the Lord, and not he in the Remainder, and if the Stranger Enters, the Lord shall have a VVrit of Intrusion.

Also, it seems the Lord shall have this Writ in case where the Tenant is disseised, and dies without Heir, because he died in his Homage.

So if the Tenant dies without Heir, and after that the Lord dies; in that Case, the Heir of the Lord may have this VVrit to recover the Lands, because by the Escheat a Right is given to the Lord to have the same.

There be divers Forms of VVrits of Escheat, for which consult the Register Original of VVrits, under this Title; but where the Tenant is a Bastard, and dies without Heir, the VVrit must be in this manner;

Precipe B. qđ iuste & sine dilatione reddat C. tria Mesuagia Centum acras terre ducentas acras prati & octoginta acras pasture cum pñd in B. que D. de eo tenuit Et que ad ipsum C. reverti debent tanquam Escaeta sua Co qđ D. Bastardus fuit & obiit sine herede, ut dic Et nisi &c.

But if he be Legitimate, and dies without Heir, the form of the VVrit is thus;

Precipe A. qđ iuste & sine dilatione reddat C. unum Mesuagium & viginti acras pasture cum pñd in B. que A. de eo tenuit Et que ad ipsum C. reverti debent tanquam Escaeta sua Co

Co qđ pđcus L. obiit sine herede, ut dic Et nisi &c.

Or if the Tenant committed Felony and was hanged, then thus,

Precepe C. qđ iuste &c. reddat H. unum Mes-
agidū unū Toftū trīginta acras terre decem
acras prati & quadraginta acras pasture cum
ptid in M. que D. de eo tenuit Et que ad
ipsum H. reuerſi debent tanquam Eſcaeta ſua
Co qđ pđcus D. feloniam fecit pro qua ſuſpen-
ſus fuit, ut dic Et niſi &c.

But if the Tenant committed Felony and fled for the ſame, ſo that he was Out-
lawed thereupon, then the VVrit muſt be
after this manner,

Co qđ pđcus J. Feloniam fecit, pro qua
utlagatus fuit, ut dicit &c.

And where the Tenant commits Felony,
and is convicted thereof, but eſcapes being
hanged for the ſame, by dying after Sen-
tence paſſed upon him, and before Execution,
the VVrit ſhall ſay Pro qua ſuſpenſus fuit,
it not being material whether he be hang'd
or not.

Tenant for the Life of the Lord, or Tenant
in Dower, or by the Curteſie ſhall have a
VVrit of Eſcheat.

Alſo the Lord may have a VVrit of Eſ-
cheat of the Meſnaley, which is but Rent-
Service, &c. and may demand the Rent by
his VVrit.

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The Attorney General may at the Kings Suit, bring a Writ of Escheat in the *Kings Bench*, or *Common Pleas* for Lands in *London*, if the Tenant thereof dies without Heir, because the Lands in *London* are holden of the King.

Also the King may have Escheat of Tenements, in any other City, or Burrough, holden of him in Fee-Farm.

Where a Lord is intituled to a Writ of Escheat, if he accept Homage of the Tenant, he shall never after that have the same, because thereby he hath accepted him for his Tenant.

The like Law is if he hath accepted Fealty of him, but where he accepts Rent of the Tenant, that shall not bar him of his Writ.

The other *Precipe qđ reddat*, or Writ of Entry above-mentioned, is a Writ of Dower, *Unde nichil habet*, and lies where a Woman takes to Husband a Man that is seised alone to him and his Heirs in Fee-simple, or to him and the Heirs of his Body begotten, &c. Or, where the Husband during the Marriage between him and his Wife is sole seised in Fee-simple, or Fee-tail, of such an Estate that the Issue between them may inherit it, in such Case, if the Husband alien the same, or dye seised thereof, or be disseised of it and dies, his Wife may have a Writ of Dower, *Unde nichil habet* against him who is Tenant of the Freehold of the said Estate.

The Form of the Writ is after this manner.

Precipe C. qđ iuste & sine dilacione reddat C. que fuit Uxo; F. rationabilem dotem suam,
que

que eam contingit de libero Tenemento quod fuit p̄dicti J. quondam viri sui in B. unde nichil habet, ut dicit, Et unde queritur qđ p̄dicti G. ei deforc Et nisi &c.

Note, this Writ may be sued in the County Court, before the Sheriff, by a *Justiciars*.

Note also, a Woman may be Endowed of an Advowson, Common of Pasture, and of other Profits or Liberties, whereof her Husband had an Estate of Inheritance, of which Estate the Issue between them might by possibility inherit.

This Writ may be also brought of Lands or Tenements in the City of *London*, directed to the Mayor and Sheriffs of the same, in this manner,

Rex & Regina Masor & vicecomitibus London salutem Precipimus vobis qđ justiciaris G. W. qđ iuste & sine dilatione & sc̄d̄ consuetudinem Civitatis nostre London reddat C. J. que fuit Wro. H. J. rationabilem dotem suam que eam contingit de libero Tenemento quod fuit p̄dicti H. J. quondam viri sui in eadem Civitate, unde nichil habet, ut dicit &c.

And a Woman may have a Writ of Dower against several Tenants, by several Precipe's; and in *London* several *Justiciars* all in one Writ.

This Writ is only brought in the *Common Pleas* (but not in the *Kings Bench*,) and the Process in it are Summons, Grand Cape, and Petit Cape.

There

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There is also a Writ of Admeasurement of Dower, which lies where the Heir Endows the VVoman, when he is within Age, of more Lands than she ought to have in Dower; in this Case the Heir when he comes of Age, may sue out this VVrit, whereby the Lands so assigned to the VVoman for her Dower, shall be admeasured, and the Surplusage restored to the Heir; but in this Case she shall not have new Lands assigned to her, to hold in Dower, but the Heir shall take from her so much Lands as amounts to above the third part of the whole of which she ought to be Endowed.

And this VVrit is Vicontiel, and shall be sued in the County before the Sheriff, the form whereof is after this manner;

Rex & Regina Wic B. salutem Questus est nobis A. G. filius & heres B. G. quod C. G. que fuit Wroꝝ p̄dict B. G. plus habet in dotem de libero Tenemento quod fuit p̄dict B. G. quondam viri sui in R. quam habere debet & ad ipsam p̄tinet habend Et ideo tibi p̄cipimus qđ iuste & sine dilone admensurari facias dotem illam Ita qđ p̄dict C. non habeat plus in dotem suam de hereditate p̄dict A. quam habere debet & ad ipsam p̄tinet habend scđum raçonabilē dotem suam Et p̄dict A. habeat de dote illa id quod habere debet & ad ipsū p̄tinet habend Ne amplius inde clamorem audiamus p̄ defectu Iusticie, Teste, &c.

And the Plaintiff may remove the Cause, when it is depending in the County Court, from thence into the *Common Pleas* by a *Pone*, with-

without shewing cause ; but if the Defendant removes the same, he must shew cause in the VVrit, as is usually done in Replevin.

And when it is removed, and Process of Summons, Attachment, and Distress thereupon awarded against the Defendant, according to the Statute, the Sheriff cannot then make any Admeasurement, but must extend all the Lands particularly, and return the same into the *Common Pleas*, and thereupon Admeasurement shall be made by the Justices of that Court.

Note, The Heir may have this VVrit for Dower assigned in the time of his Ancestor.

VVhere a VVoman after Dower assigned to her, improves the Lands, making them better than they were before, in that Case the Heir shall not have Admeasurement of that Improvement.

But if this Improvement happens by the discovery of some Mine, or Mineral in the Lands, which were used in the time of her Husband, in such Case it hath been doubted whether Admeasurement would lye for the Heir ; but it is certain, That she cannot make new Mines in the Land, for thereby she would commit waste.

VVhere the Ancestor dies seised, and the Husband dies before he Enters into the Lands, yet the VVife shall be Endowed, though her Husband never had more than a Possession in Law.

No Man shall be Tenant by the Curtesie of his VVifes Lands, except the VVife had possession in fact of those Lands, unless in some special Cases, as of an Advowson, or
of

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There is also a Writ of Admeasurement of Dower, which lies where the Heir Endows the VVoman, when he is within Age, of more Lands than she ought to have in Dower; in this Case the Heir when he comes of Age, may sue out this VVrit, whereby the Lands so assigned to the VVoman for her Dower, shall be admeasured, and the Surplusage restored to the Heir; but in this Case she shall not have new Lands assigned to her, to hold in Dower, but the Heir shall take from her so much Lands as amounts to above the third part of the whole of which she ought to be Endowed.

And this VVrit is Vicontiel, and shall be sued in the County before the Sheriff, the form whereof is after this manner;

Rex & Regina Ric^{us} B. salutem Quæritur
est nobis A. G. filius & heres B. G. quod
C. G. que fuit Uxor p^{re}dictⁱ B. G. plus ha-
bet in dotem de libero Tenemento quod fuit
p^{re}dictⁱ B. G. quondam viri sui in h. quam ha-
bere debet & ad ipsam p^{er}tinet habend^{um} Et ideo
tibi p^{re}cipimus q^{uo}d iuste & sine dilone admen-
surari facias dotem illam Ita q^{uo}d p^{re}dict^a C. non
habeat plus in dotem suam de hereditate p^{re}dictⁱ
A. quam habere debet & ad ipsam p^{er}tinet ha-
rend^{um} s^{ecundu}m r^{ati}onabil^{em} dotem suam Et p^{re}dict^a
A. habeat de dote illa id quod habere debet & ad
ips^{am} p^{er}tinet habend^{um} Ne amplius inde clamo-
rem audiamus pro defectu Iusticie, Teste, &c.

And the Plaintiff may remove the Cause, when it is depending in the County Court, from thence into the *Common Pleas* by a *Pone*, with-

without shewing cause ; but if the Defendant removes the same, he must shew cause in the VVrit, as is usually done in Replevin.

And when it is removed, and Proceſs of Summons, Attachment, and Distress thereupon awarded against the Defendant, according to the Statute, the Sheriff cannot then make any Admeasurement, but must extend all the Lands particularly, and return the same into the *Common Pleas*, and thereupon Admeasurement shall be made by the Justices of that Court.

Note, The Heir may have this VVrit for Dower assigned in the time of his Ancestor.

VVhere a VVoman after Dower assigned to her, improves the Lands, making them better than they were before, in that Case the Heir shall not have Admeasurement of that Improvement.

But if this Improvement happens by the discovery of some Mine, or Mineral in the Lands, which were used in the time of her Husband, in such Case it hath been doubted whether Admeasurement would lye for the Heir ; but it is certain, That she cannot make new Mines in the Land, for thereby she would commit waste.

VVhere the Ancestor dies seised, and the Husband dies before he Enters into the Lands, yet the VVife shall be Endowed, though her Husband never had more than a Possession in Law.

No Man shall be Tenant by the Curtesie of his VVifes Lands, except the VVife had possession in fact of those Lands, unless in some special Cases, as of an Advowson, or
of

of a Rent, where she dies before the Rent becomes due.

If the VVife takes a Lease for years of her Husbands Lands, she shall not sue to have Dower of those Lands, until the Lease be expired.

So, when the Estate which the Husband had during the Espousals is determined, the VVife shall lose her Dower; as, where Tenant in Tail discontinues in Fee, and after that taketh a VVife, and disseiseth the Discontinuee, or the Discontinuee Enfeoffeth the Husband in Fee, and then the Tenant in Tail dies seised; in these Cases the Heir is remitted, and the VVife shall lose her Dower, because the Heir is in of another Estate of Inheritance than the Husband had during Marriage.

So, if a Man hath Title of Action to recover any Lands, and Enters, and disseiseth the Tenant of the same, and dies seised, whereupon his Heir Enters; here the Heir is remitted to the Title which his Ancestor had, and the VVife of the Husband who died seised shall lose her Dower, because the Estate which her Husband had is determined, being an Estate in Fee, which he had only by Tort, but the Heir hath an Estate in Fee, which was in his Ancestor by Right.

If one makes a Gift in Tail, reserving Rent to him and his Heirs, after which the Donor takes a VVife and dies, Tenant in Tail also dies without Issue; in this Case the VVife of the Donor shall not have Dower of the Rent, because it is Extinct, being reserved upon the Estate Tail which is determined.

But

But notwithstanding that the Tenant in Tail died without Issue, yet his Wife shall be Endowed, because the Lands remain, though the Rent be extinct.

So, if the Grandfather dies seised, and after him the Father dies seised, and the Son enjoys the Lands, and afterwards the Wife of the Grandfather is Endowed of the third part, and after that dies, yet the Wife of the Father shall never have Dower of that third part, in regard of the Maxim, *Dos de dote peti non debet*.

In like manner, if the Husband be Tenant in Common, with two others, in Fee of certain Lands, and dies, his Wife shall be Endowed of the third part of those Lands, &c. and not by Meets and Bounds, but to hold in Common.

And if a Woman be Endowed of a Mill, or of an Office, she shall be assigned of the third part of the Profits thereof, and the third part of the Mill shall be a Free-hold to her.

If the Husband exchangeth Lands, and dies, if the Wife has Dower of those Lands taken in Exchange, she shall not have Dower of the Lands her Husband gave in Exchange.

If a Joynt-Tenant makes a Feoffment of his part, his Wife shall not be Endowed, because her Husband was never sole seised.

A Woman married in a Chamber, shall not have Dower by the Common Law, according to the Year Book of *Hill. 16. Edw. 3.*

In Gavel-kind the Wife hath the Moieties of the Lands of her Husband, by the Custom of the Place.

Also,

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Also, by the Custom of some Mannors; she shall have all the Lands of her Husband, for her Dower, during her Widow-hood; and according to *Fitzherbert* in his *Natura Brevium*, in some Cities she shall have the whole, by the Custom called *Frank Bank*, or *Free Bench*.

A VVoman shall have Dower of her Husbands Lands by the Common Law, if she be of the Age of Nine Years, at the time of her Husbands death; but if she be under that Age at the time of his death, she shall lose her Dower.

A VVoman shall lose her Dower by Elopement from her Husband, and living with her Adulterer; but if she lives with her Adulterer in any part of the Estate which belongs to her Husband, she will thereby preserve her Dower, because it cannot be said an Elopement.

So, if the Husband be attainted of Felony by Outlawry or otherwise, the Wife shall lose her Dower.

There is also another Branch or Appendix to the Title Dower, necessary to be known, which is called a VVrit of Right of Dower, and lies where a VVoman is Endowed of part of her Dower, and would demand the residue against the same Tenant, in the same Town, for which she must bring this VVrit, for neither a VVrit of Dower, *Unde nichil habet*, nor any other VVrit but this will reach the Case, and the reason is, because she hath received part of her Dower, and therefore of necessity she must sue out this VVrit for recovery of the residue.

This

This VVrit is Patent, *viz.* open and not Close, or inclosed in VVax, as the other VVrits made by the Curſitor, for the moſt part are, and muſt be directed to the Heir of her Husband, to be ſued in his Court.

And if ſuch Heir be Tenant of the Lands whereof the VVoman demands Dower, and will not aſſign the ſame to her, ſhe may remove the Plaint into the County Court, before the Sheriff by a *Tolt*, and from thence by *Pone* into the Court of *Common Pleas*, without ſhewing Cauſe wherefore ſhe removed the ſame; but it is otherwiſe in the Caſe of the Tenants removing the Plaint out of the County Court into the Court of *Common Pleas*, for there he is obliged to ſhew ſome evident Cauſe in the *Pone*, why he removed the ſame.

The Tenant may alſo remove the Plaint upon a VVrit of Right Patent, into the *Common Pleas*, out of the Court, by a *Reſale*, or VVrit of *Recordare facias loquelam*, but not without Cauſe ſhewed in the VVrit.

If the Husband enfeoffs a Stranger of all his Lands, and dies, his Heir hath nothing by diſcent, if the VVife will bring this VVrit, ſhe muſt direct the ſame to the Feoffee, who (it ſeems) after her Endowment ſhall be her Lord, and ſhe ſhall hold her Dower of him by Fealty.

Alſo, if the Husband give part of his Manor to one in Tail, to hold of him, and dies, his VVife ſhall ſue her VVrit of Dower in the Court of the Heir of her Husband, againſt the Donee in Tail directed to the Heir.

But

But if the Husband makes a Gift in Tail to a Stranger, of all the Lands he hath, and dies, and his Wife is to bring a VVrit of Right of Dower of that Land, there the Heir of the Husband cannot have any Court, because he has but a Seignory in gross, and therefore she must direct her VVrit to the Sherif, returnable in the *Common Pleas*, with this Clause inserted therein, viz. *Quia R. P. Capitalis Dominus feodi illius Nobis inde remisit Curiam suam.*

So if the Husband lets all his Lands to one by Lease for Life, and dies, and his VVife would bring her VVrit of Right in Dower against the Lessee, she must bring the same in the *Common Pleas*, because he in Reversion hath no Court.

If the Lord hath no Court to hold Plea upon this VVrit, and do Right to the Party, he shall not have an Action against the Demandant for bringing her VVrit in the *Common Pleas*.

But if the Lord hath a Court to hold Plea of this matter, then if the Demandant sues out her VVrit of Right in Dower, in the Court of *Common Pleas*, without his Assent to remit his Court, in that Case, some are of Opinion, That the Lord may have a Writ of Prohibition, directed to the Justices of the *Common Pleas*, that they proceed not upon that Plea, but otherwise he cannot.

If a VVoman loseth her Lands which she held in Dower by default, in a *Precipe quod reddat*, yet some are of Opinion, she may have a VVrit of Right of Dower for Recovery of the same.

But

But it seems by the Equity of the Statute of *W. 2. Cap. 4.* If she loseth by default, the Lands she had in Dower, she shall have a *Quod ei deforcat*, for the Recovery of the same, and not a Writ of Right of Dower; but before this Statute she had no other remedy for the Recovery thereof, but an Action of Disceit, if she was not summoned in this Writ of Dower.

Also, if a Woman loseth her Dower by an Affise or Action tried, it seems, she hath no other remedy, but by Attaint, for it seems she cannot recover but by a Writ of Right of Dower, because she had it once assigned to her as Dower, and was in possession thereof, so that the Title being executed, she ought to bring an Action of her own possession, if she be afterwards disseised.

Note, when the Plaint is removed into the *Common Pleas*, the Process there is first a grand Cape, and then a Petit Cape.

But in the Court of the Heir, the course is to make a Precept in nature of a Summons, and of a grand Cape, and Petit Cape; and the Writ directed to the Heir must be after this manner;

Rex & Regina A. B. salutem precipimus tibi qd sine dilone plenum Rectm teneas C. que fuit Uxor D. B. de tertia parte unius Mesuagii & triginta acrarum terre cum pertin in B. quam clamat tenere de te in dote p liberum servitium tertiae partis unius solidat p annum pro omni servitio, quam C. F. ei deforcat &c.

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A Woman may also have a Writ of Right of Dower, of the Moiety of her Husbands Lands, according to the Custom of Gavel-kind, where she hath had any part thereof assigned to her for Dower, and is disseised of the residue.

She may also have this Writ directed to the Heir himself, where he disseiseth her of her Dower.

A Woman may also have a Writ of Right of Dower, of the Profits of an Office, or of any thing that is appendant, or appurtenant to the Lands which she holds in Dower.

There is likewise in the Register of Writs, another Branch of the Title *Dower*, called (*breve de dote assignanda*, or) a Writ to assign Dower; which did lie, where it was found by Office, That the Kings Tenant was seised of Lands in Fee, or in Tail at the time of his death, and held the same of the King by Knights Service; in which Case the Widow of the Tenant was to come into the Court of Chancery, and make Oath there, *That she would not marry without the Kings leave*, upon which the King would assign Dower to her, in the said Court of those Lands, and thereupon she might have this Writ to the Escheator to perform the same.

But in regard Tenures by Knights Service, and their Appendices, as Wardship with its Branches, also Offices *post mortem*, Traverses, &c. are abrogated and taken away by the late Act for alteration of Tenures, This Writ *De Dote assignanda* is wholly out of use.

Thus

Thus having mentioned the several Writs in the Register, which are to be brought by Tenants in Dower, for the Recovery of their Estates, it now remains to give some Account of such Writs as lie against them at the Common Law, for aliening the Inheritances of those in Reversion.

And first of a Writ of Entry in Casu Provifo.

This Writ is given by the Statute of *Gloucester, Cap. 7.* and lies, where a Tenant in Dower aliens in Fee, in Tail, or for Life, the Lands which she holds in Dower; there he who hath the Reversion in Fee, in Tail, or for Life, shall immediately have this Writ against the Alienee, or he that is Tenant of the Free-hold of such Lands so aliened, which Writ must be brought during the Life of Tenant in Dower; the form whereof is thus in the Pet;

Re^r & Regina Ric^{us} D. salutem Precipe A.
 L. qđ iuste & sine ditione reddat B. W. unū
 Mesuagium decem Acres terre decem acras pas-
 ti & octo acras pasture cum pertin^{tiis} in B. que
 clamar esse ius & hereditatem suam & in que
 idem A. non habet ingressum nisi per C. W.
 que fuit Wro^r D. W. que illa et dimisit, que illa
 tenuit in dotem ex dotatione p^{re}dictⁱ D. quon-
 dam viri sui patris p^{re}dicti B. cuius heres ipse
 est Et que post dⁱmissionem per ipsam C. p^{re}fatⁱ
 A. contra formam Statuti apud Glouc^{ie} de com-
 muni Consilio Regni nostri inde p^{ro}visⁱ, factⁱ,
 T 2 in

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in feodo ad *psat* *B.* Reverti debent per *for-*
mam ejusdem Statuti, ut dicit *Et nisi* &c.

And in the *Per* and *Cui* thus,

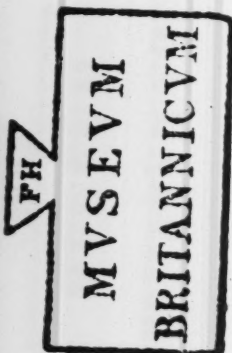
Et in que idem A. non habet ingressum nisi per C. cui D. que fuit Uxor C. illa dimisit, que illa tenuit in dotem ex dotatione p̄dict C. quondam viri sui patris p̄dict B. cuius heres ipse est Et que post dimissionem per ipsam D. p̄sat A. contra formam Statuti. &c.

But if it be in the *Post*, then thus;

Et in que idem A. non habet ingressum nisi post dimissionem quam C. que fuit Uxor F. que illa tenuit in dotem ex dotatione p̄dict F. quondam viri sui, patris p̄dict B. cuius heres ipse est inde fecit G. L. Et que post dimissionem per ipsam C. p̄sat A. contra formam Statuti &c. ad p̄sat B. reverti debent per formam ejusdem Statuti, ut dicit &c.

And, if a *W*oman after she hath recovered her Dower against the Heir, aliens the same in Fee, the Heir may have this *Writ* against the Alienee, setting forth therein the Recovery had against him by the Tenant in Dower; and the *Writ* shall be alwaies the same in form, be the Alienation in Fee, in Tail, or for Life.

And if the Heir grants the Reversion to one, of Lands holden in Dower, of his Inheritance, and the Tenant Attorns, and Tenant in Dower alieneth in Fee; the Grantee of the Reversion may have a *Writ* of Entry



try in Casu proviso ex assignatione, in this manner;

Et in que idem A. non habet ingressum nisi p C. que fuit Wro. J. D. que illa de pfac J. tenuit in dotem ex dotatione ejusdem J. quondam viri sui ex assignatione quam H. D. filius & heres pdict J. inde fecit pfac B. S. Et que post dimissionem per ipsam C. pfac A. contra formam Statuti &c. ad pfac H. reverti debent per formam ejusdem Statuti, ut dicit &c.

So, where the Heir grants the Reversion to one in Fee, to whom the Tenant in Dower Attorns, and the Grantee grants the same over to another, and she also Attorns to him, and the second Grantee grants the same over to a third person, and the Tenant in Dower likewise Attorns to him, and after alieneth the Lands she holds in Dower to J. S. in Fee; here in this Case the third Grantee shall have a VVrit of Entry in Casu proviso for the recovery of the Reversion granted to him by the second Grantee, in this manner;

Rex & Regina Vic Portico salutem Prescipe J. S. qđ juste & sine dilone reddat W. R. duo Mesuagia octoginta acras terre quinquaginta acras prati & sexaginta acras pasture in R. que clamat esse jus & hereditatem suam Et in que idem J. non habet ingressum nisi per [or Post] dimissionem quam B. que fuit Wro. G. T. que illa tenuit in dotem ex dotatione pfac C. quondam viri sui de pdicto W. ex assignatione J. R. de quo pdict B. illa tenuit
T 3 in

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in dotem ex assignatione H. P. de quo eadem B. illa tenuit in dotem ex assignatione quam L. T. filius & heres p̄dicti G. T. inde fecit p̄fat H. qui inde fecit D. M. Et que post dimissionem per ipsam B. p̄fat J. S. contra formam Statuti &c. in feodo ad p̄fat. W. reverti debet per formam Statuti p̄dicti &c.

And Note, That where the Tenant in Dower doth alien in Fee, the Lands she holds in Dower; and the Reversion of those Lands discend to the Aunt and the Niece; in that Case, they may both joyn in this VVrit.

The Process in this VVrit are Summons; Grand Cape, and Petit Cape.

There is also another VVrit, in the Register, against Tenant in Dower, called *Writ de Ingressu ad Communem Legem*, or a VVrit of Entry at the Common Law, and lies, where Tenant in Dower doth alien the Lands which she holds in Dower, in Fee, to a Stranger, and dies; here, in this Case, the Heir, or he in the Reversion in Fee, or for Life, may, after her death, have a VVrit of Entry at the Common Law, for Recovery of his Estate; and the Form of the VVrit is thus;

Rex & Regina vic' Leic' salutem Precipit A. B. qđ iuste & sine dilatione reddat C. D. unū Mesuagium & decem acras terre cum p̄tin in A. que clamat esse jus & hereditatem suam Et in que idem A. non habet ingressū nisi p̄ C. que fuit Uxor J. S. que illa ei dimisit, que illa tenuit in dotem ex dotatione p̄fat J. quondam viri sui, patris [or other Ancestor] p̄dicti C. cuius

*cujus heres ipse est, ut dicit Et unde queritur
et. Et nisi et.*

Note, this Writ lies in the *Per*, in the *Per* and *Cui*, and in the *Post*.

If a Woman recovers her Dower by Action at Law, and after that aliens the same in Fee, in this Case, the Heir, or he in Reversion, may after her death bring this Writ of Entry at the Common Law, but then he must make mention in the Writ how, and in what manner the Dower was recovered.

This Writ of Entry at the Common Law, lies also for him in the Reversion against Tenant by the Curtesie, called *Tenens per Legem Anglie*, in case where he aliens the Lands he holds, &c. to another in Fee or for Life, and dies, and the Writ shall be in this form;

*Rex & Regina Viri Hunt salutem Precipe A.
N. qd pater & sue uxor reddat C. D. unum
Moluarium & sex araras terre cum pnd que
clamaq esse sua & hereditarem suam Et in que
idem A. non habet ingressum nisi per C. F.
qui illa tenuit per Legem Anglie post mortem
B. quondam Uxoris ejus Patris pdicti C. cu
jus heres ipse est, ut dicit Et unde queritur, et.
Et nisi et.*

And this Writ also lies in the *Per*, *Per* and *Cui*, and in the *Post*.

And 'tis at the election of the Heir, or he in the Reversion in Fee, after the death of Tenant by the Curtesie, who hath aliened the Lands, to bring this Writ, or an Assise of

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Mort d'Ancestor, which is given by the Statute of *Gloucester*, Chap. 4. at his discretion.

This VVrit of Entry at the Common Law, in like manner, lies where Tenant for Life, doth alien in Fee, or for Term of anothers Life, or in Tail, the Lands which he, or she holds for Life, and dies, Then after his or her death, he in the Reversion, who hath the same in Fee, or for Term of Life, may have this VVrit, which is in divers forms; one whereof for him who hath the Reversion by discent, is thus;

Rex & Regina Wic' Potingh salutem Precipe A. B. qd iuste & sine ditione reddat C. D. quinque Meluagia quinque Tosta duo Molendina aquatica ventritica duo Molendina Fullonica sex Columbaria quinque Cardina Trescentas acras terre octoginta acras pasture sexaginta acras Bosci Centum & quadraginta acras Jampnozorum & Bruere cum pertin in L. D. & S. Que Clamat ut Jus & hereditatem suam Et in que idem A. non habet Ingressum nisi per H. J. cui C. D. pater ipsius C. cuius heres ipse est illa dimisit ad vitam ipsius H. ut dicit Et unde &c. Et nisi &c.

But if the Demandant lets Lands to one for Life, who aliens the same to another in Fee, in this Case he need not put in the Clause, *Que clamat esse Jus & hereditatem suam.*

Also, in that Case, the Demandant hath his Election, whether he will bring this VVrit, or an *Ad Terminum qui preterit.*

If

If Tenant for Life grants over his Estate to another, and he in the Reversion grants his Estate to one in Fee, to whom the Tenant Attorns; and then the second Lessee aliens the Lands in Fee; in such Case the Grantee of the Reversion may have this VVrit for Recovery of the same;

Rex & Regina Vic. Buk. salutem Precipe A. B. qđ iuste & sine dilatione reddat C. D. viginti acras prati cum pertinentiis in R. V. quas clamat esse ius & hereditatem suam & in quas idem A. non habet ingressu nisi per C. F. qui illas ei dimisit, qui illas ad vitam suam tenuit de p̄lat C. ex Assignmente quam C. V. qui illas p̄lat C. dimisit ad eundem terminum inde fecit p̄lat C. ut dicit &c.

Much to the like purpose is the VVrit of Entry, *In consimili casu*, which is founded upon the Statute of *Westm. 2. Cap. 24.* as appears *Hill. 3. Edw. 2.* And therefore we shall waive it, and come to the VVrit of Entry upon disseisin in the *Post*, as the ground and foundation of *Common Recoveries*, and so conclude the Title of VVrits of Entry, or *Precipe's qđ reddat*.

Common Recoveries are well known to be Conveyances of Record, by consent of the Parties to the same, for the corroborating and perfectly assuring of Estates to Purchasers, by Docketing and Cutting off Entails, and destroying Reversions or Remainders, and such Leases or other Incumbrances as depend thereupon.

This

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This Writ of Entry upon Disseisin in the Post, must contain in it three Persons, at the least, that is to say, the Plaintiff or Demandant, who is the Recoveror, the Defendant or Tenant who is the Recoveeree, and the Person whom the Tenant voucheth, or calleth in Court to warrant the Lands to him, called the Vouchee; and where the Writ of Entry containeth no more names in it, 'tis said to be a Recovery with single Voucher, whose Office is to Bar the Tenant and his Heirs of such Estate Tail, as is only in himself, as also to defeat the Reversions or Remainders of other persons thereupon, and such Leases, or other Incumbrances as are derived out of the same.

Note, in this Recovery with single Voucher, the Demandant is supposed to recover against the Tenant, and the Tenant against the Common Vouchee (for so the last Vouchee in every Common Recovery is called, and the Recovery against such Common Vouchee, a Recovery in value.)

But if the Recovery be with double Voucher, then the third person is the first Vouchee, and voucheth to warranty a fourth person, who is the Common Vouchee.

So, if with treble Voucher, the first Vouchee voucheth a fourth person, who voucheth over the Common Vouchee, *Et sic de ceteris*.

I said before *Supposed to Recorder*, because a Common Recovery is but a fiction in Law, the Demandant being commonly a Stranger to the Purchase, some Attornies Clerk, whose Name is only made use of for that purpose; and

and the Common Vouchee a poor Man of no Estate, usually the Bag-bearer to the *Custos Brevium* of the *Common Pleas*, having no Land to render in value; yet by this subtle Artifice founded upon the strict Rules and nicety of Pleading in Real Actions, together with the Course used in this Court for many Ages, the real Tenant of the Land doth voluntarily part with his Interest in the same for the benefit of the Purchaser, notwithstanding in reality, he can have no compensation, because the Common Vouchee hath nothing wherewith to make any manner of satisfaction, by rendering over in value.

In bringing your Writ of Entry upon disseisin in the ~~Post~~ you ought to consult the Rules in the Register of Writs Original, as also the Curfitor in placing the Parcels in a Clerklike Method, and if your Particulars be not over special, the ensuing old Verses will instruct you well enough.

suagium,	tum,	endinum,	lumbare,
Mes	Toft	Mol	Col
dinum,	ra,	tum,	tura, cus,
Gar	Ter	Pra	Paf Bos
ra,			

Brue Mora.

rium,	cus,	tum,	caria,	dinus,
Junca	Maris	Alne	Pis	Red

Seque Priora.

Note, you must draw your Precipe upon Paper, and carry it to the Curfitor, who will make a Writ of Entry upon it, which if it be upon a single Voucher must be thus;

Derb;

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Verb. N. Precipe Johanni Butler generoso qđ iuste &c. reddat Wilo Darnel generoso unum Meluagium viginti acras terre triginta acras prati octoginta acras pasture, centum & vinginti acras Bosci centum & quadraginta acras Jampnozumi & Buere & ducentas acras moze cum ptiid in B. C. & D. que clamat &c.

Note this Precipe must be Entred upon the Remembrance, in the Office of that Prothonary to whom you belong, and then you must at the same time write thus in the Margent of the Remembrance. **N. Tenens in propr' psona voc' ad War' Johem Wheeler** (the Common Vouchee.)

Note, in a Recovery with single Voucher, the Demandant brings a Precipe, and counts against the Tenant in Tail in possession, who voucheth, or calleth to Warranty the Common Vouchee.

When your Precipe is thus Entred upon the Remembrance, you must draw your Recovery on Paper, and then call to the Prothonotary for a Plea Roll, and Ingross the same in the large Court Hand, called the Exemplifying Hand; the Form whereof for a single Voucher is thus;

Verb. N. Wilus Johnson generosus in propria psona sua petit versus Johem Butler generosum tria Meluagia tria Tosta duo Molendina aquatica granatica tria Columbaria tria Gardina octoginta acras terre quadraginta acras prati centum & quinquaginta acras pasture quadraginta acras Jampnozumi & Buere & octoginta acras moze cum ptiid in A. B. & C. ut
jus

sus & hereditatem suam & in que idem Iohes non habet ingressum nisi post disseisinam quam Hugo Hunt inde iniuste & sine iudicio fecit prefat Willmo infra triginta annos, &c. Et unde dicit qđ ipsemet fuit seissit de Tenementis predictis cum pñd in dñico suo ut de feodo & iure tempore pacis tempore dñi Regis & dñe Regine nunc capiend inde expleß ad valenciam &c. Et in que &c. Et inde producit sextam &c.

Et pđ Iohes Butler in propria plona sua venit & defendit ius suum quando &c. Et vocat inde ad War Iohem Wheeler qui plens est hic in curia in ppria persona sua Et gratis Tenementa pñda cum pñd ei War &c. Et sup hoc pñdus Willus petit versus ipsum Iohem Wheeler Tenend per War suam Tenementa pñda cum pñd in forma pñda &c. Et unde dicit qđ ipsemet fuit seissit de tenementis pñd cum pñd in dñico suo ut de feodo & iure tempore pacis tempore dñi Regis & dñe Regine nunc capiend inde Expleß ad valenciam &c. Et in que &c. Et inde producit sextam &c.

Et pñdus Iohem Wheeler Tenens p War suam defendit ius suum quando &c. Et dicit qđ pñdus Hugo non disseisibit prefat Willum de Tenementis pñdis cum pñd pñt idem Willus per breve & War sua pñda superius supponit Et de hoc ponit se super Patriam &c.

Et pñdus Willus petit Licenciam inde Interloquendi Et habet &c. Et postea idem Willus revenit hic in Cur isto eodem Termino in propria plona sua Et pñdus Iohes Wheeler licet solempniter exat non revenit set in Contemptu Cur

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Cur recessit & defaltam facit Ides Considerand
est qđ pđictus Willus recuperet leissinam suam
plus pstatum Johem Butler de Tenementis pđ
cum pñd Et qđ idem Johes habeat de terra
pđ Johes Wheeler ad valentiam &c. Et pñct
Johes Wheeler in misericordia &c. Et super
hoc idem Willus petit breve domini Regis &
domine Regine vic Com' pñcti dirigend de ha-
bere faciend ei plenariam leissinam de Tene-
mentis pñctis cum pñd Et ei conceditur re-
sotnabile hic indilate &c. Ad quem diem hic
venit pñctus Willus in ppria persona sua Et
Altrecomes videt L. P. Armiger modo mand
qđ ipse virtute brevis illius sibi directi nono die
Februarii ult pterit habere fecit pstat Willus
plenariam leissinam de Tenementis pñctis cum
pñd put p breve illud sibi pceptum fuit &c.

When you have thus Entred your Recove-
ry upon the Roll, in the next place you must
get a skin of Parchment (of a Stationer) En-
graved for that purpose, and Exemplifie the
same thereupon, beginning thus,

Gulielmus & Maria Dei gratia Angl & Scocie
Franc & Hibernie Rex & Regina fidel Defenso-
res &c. Omnibus ad quos presentes Litere nre
pvenierint salutem. Sciatis qđ inter Placita
Terre tractulat apud Westm coram Georgio
Treby Milite & Sociis suis Justiciariis nostris
de Banco de Termino sancti Hillaris Anno
Regni nostri quarto Rotulo tricesimo secundo
continetur Ac Derd A. Willus Johnson genero-
sus in ppria persona sua petit versus Johem
Butler generosum tria Mesuagia &c. And so
continue the whole Entry of the Recovery

as

as before upon the Roll, unto the end, and then conclude your Exemplification thus,

*Que omnia & singula ad requisitionem p̄dicti
Willi tenore p̄sentium durimus Exemplificand
In cuius rei Testimonium Sigillum nostrum
ad brevia in Banco p̄dicto sigilland deputat
p̄sentibus apponi fecimus Willelmo G. Treby
apud Westm̄ duodecimo die Februarii Anno
Regni nostri quarto.*

But if your Recovery be with double Voucher, you ought, either by Fine, Deed of Bargain and Sale inrolled, or of Lease and Release, make a Stranger Tenant to the Precipe, when you bring your Writ of Entry, because every Writ of Entry ought to be brought against one that is perfect Tenant of the Free-hold of the Land, at the return of the Writ, forasmuch as the Estate of the Tenant in Tail, (who in this Case is the first Vouchee) is barred, in respect of the Assets, which he is supposed to recover in value of the Common Vouchee, and on Execution by the feigned Tenant against the first Vouchee or real Tenant of the Lands.

This Recovery with double Voucher will bar the first Vouchee, or Real Tenant, and his Heirs, of such Estate, as he, or any of his Ancestors, had at any time in the Lands contained therein. It will also bar all other persons that claim any right to the Reversion or Remainder thereof, or expectant, or dependent thereupon, as also of all Leases, Rent-charges, Grants, or Incumbrances derived out of the same, or any part thereof.

The

The manner of Enttring a Recovery with double Voucher upon a Plea Roll.

Berk. ff. Thomas White generosus in propria persona sua petit versus Willm Jackson generosum duo Mesuagia duo Costa unum Molendinum Fullonicum duo Columbaria, duo Gardina Centum acras terre triginta acras prati ducentas acras pasture quinque acras Marisci salis viginti acras Marisci frischi septuaginta solidat reddit & Communiam Pasture p omnimodis Aueriis cum prind in L. & D. necnon Advocationem Ecclesie Parochialis de D. ut jus & hereditatem suam Et in que idem Willus non habet ingressum nisi post disseisinam quam Hugo Hunt inde injuste & sine iudicio fecit pstat Thome infra triginta annos &c. Et unde dicit qd ipsemet fuit seist de Tenementis Redditi & Communia pdictis cum pertind in dominico suo ut de feodo & jure ac de Advocatione pdict ut de feodo & jure tempore pacis tempore dni Regis & dne Regine nunc Captendo inde Expleas as valenciam &c. Et in que &c. Et inde producit sectam &c.

Et pducus Willus in propria persona sua venit & defendit jus suum quando &c. Et vocat inde ad War Rogerum Blagrave Armigerum qui presens est hic in Cur in propria persona sue Et gratis Tenementa Reddit & Communiam pdict cum pertind ac Advocationem pducand ei warantizat &c. Et super hoc pducus Thomas petit versus ipsum Willm tenentem per warantiam suam Tenementa Reddit & Communiam

niam predict cum pertin ac Advocationem
pocant in forma predicta &c. Et unde dicit qd
iplemet fuit seiscitus de Tenementis Reddit
& Communia predict cum pertin in dominico
suo ut de feodo & iure ac de Advocatione
predict ut de feodo & iure tempore pacis tem-
pore domini Regis & domine Regine nunc Ca-
piendo inde Expleas ad valenciam &c. Et in que
&c. Et inde producit lectam &c.

Et predict Rogerus Tenens per warantia
sua defendit ius suum quando &c. Et ulterius
vocat inde ad warantizandum Johem Wheeler
qui similiter plens est hic in Curia in pro-
pria persona sua Et gratis Tenementa Red-
dit & Communia predict cum pertin ac Advo-
cationem pocant ei warantizat &c. Et super
hoc predictus Thomas petit versus ipsum Johem
Tenentem per warantia sua Tenementa Red-
dit & Communiam predict cum pertin ac Ad-
vocationem predictam in forma predicta &c. Et
unde dicit qd iplemet fuit seiscitus de Tene-
mentis Redditu & Communia predictis cum
pertin in dominico suo ut de feodo & iure
ac de Advocatione predict ut de feodo & iure tem-
pore pacis tempore domini Regis & domine
Regine nunc capiendo inde Expleas ad va-
lenciam &c. Et in que &c. Et inde producit
lectam &c.

Et predictus Johannes Tenens per War-
rantiam suam defendit ius suum quando &c.
Et dicit qd predictus Hugo non disseisibit
prefatum Thomam de Tenementis Redditu
& Communia predict cum pertin ac de Advo-
catione predict prout idem Thomas per breve &

Narrationem sua p̄dict̄ superius supponit Et
de hoc ponit le super Narram̄ &c.

Et p̄dictus Thomas petit Licenciam inde
interloquendi Et habet &c. Et postea idem
Thomas revenit hic in Curia isto eodem
Termino in propria persona sua Et p̄dictus
Johannes licet solempniter eratus non
revenit sed in contemptum Curie recessit
& defaltam fecit Ideo Consideratum est
q̄d p̄dictus Thomas recuperet seisinam
suam versus p̄dictum Willielmum de Tenementis
Redditi & Communia p̄dictis cum
pertinē ac de Advocacione p̄dicta Et q̄d idem
Willus habeat de terra p̄dicti Rogeri ad valenciam
&c. Et q̄d idem Rogerus ulterius habeat
de terra p̄dicti Johannis ad valenciam &c. Et
idem Johannes in misericordia &c. Et sup
hoc p̄dict̄ Thomas petit Breve Domini Regis
& Domine Regine Vicecomiti Comitatus
p̄dicti dirigendū de habere faciens ei plenariam
seisinam de Tenementis Redditi & Communia
p̄dictis cum pertinentiis ac de Advocacione
p̄dicta Et ei conceditur reformatibile hic a
die Sancti Michaelis in unum Mensē &c. Ad
quem diem hic venit p̄dictus Thomas in
propria p̄sona sua Et Vicecomes videlicet R. B.
Piles modo mand q̄d ipse virtute brevis p̄dicti
sibi directi vicesimo sexto die Novembris ultimo
p̄terito habere fecit p̄fat̄ Thome plenariam seisinam
de Tenementis Redditi & Communia
p̄dictis cum p̄tinē ac de Advocacione p̄dicta p̄at̄
p̄ Breve illud sibi p̄ceptum fuit &c.

The

The Form of a Precipe, for a Recovery for a double Voucher, to be Entred upon the Remembrance in the Prothonotaries Office.

Werk. R. Precipe Willo Jackson generoso qđ fuisse &c. reddat Thome White generoso duo Mesuagia duo Tofta unum Molendinum fullonnicum duo Columbaria duo Gardina Centum acras Terre triginta acras prati ducentas acras Pasture quinq; acras Marisci salis viginti acras Marisci frisici septuaginta solidat reddit & Communiam Pasture p omnimodis averiis cum pñd in L. & D. necnon Advocationem Ecclesie Parochialis de D. que clamat &c.

Tenens in ppria psona To be writ in the vocat ad War Roger Margent. rum Wlagrabe Ar qui vocat Johem Wheeler (the Common Vouchee.)

Note, In the first Recovery the Parcels consist only of Mesuages, Tofts, Mills, Dove-Houfes, Gardens, Land, Meadow, Pasture, Wood, Furze and Heath, and Moor, and therefore they are named in the *Warranty*, *Demand*, and laying the *Seisin*, by the Word *Tenement*, in this manner, Et gratis Tenementa pñda cum pñd ei Warantizat &c. Et sup hoc pñdus Johes petit versus ipsum Johem Wheeler (the Common Vouchee) Tenementa pñda cum pñd &c. Et tñd dicit qđ ipsemet fuit seist de Tenementis pñdis cum pñd &c.

But, in the second Recovery, there being *Rent, Common of Pasture, and the Advowson of a Church*, besides the other Particulars which go under the denomination of *Tenements*, they are exprest separately in the *Waranty*, and the *Demand*, by the words *Tenementa Reddit & Communiam p̄dicta cum p̄tinētia, ac Advocationem p̄dictam*. And in laying the *Seisin* *Quod ipsemet* (the Demandant) *fuit seisiſt de Tenementis Redditu & Communia p̄dictis cum p̄tinētia in dominio suo ut de feodo & jure &c.*

The Reasons whereof are these;

First, because *Rent, Commons and Advowsons* are always named particularly in the *Waranty, Demand*, and laying the *Seisin* in the Demandant as well as *Tenements*.

Secondly, *Tenements, Rent and Commons* are always said to be *cum p̄tinētiis*, with the *Appurtenances*, but *Advowsons* have no *Appurtenances* belonging thereunto, and so are named without them, by themselves, and not with such things as have *Appurtenances*.

Thirdly, *Tenements, Rent and Commons* lye in *Demefn*, but *Advowsons* in *Gross*, (that is to say, such *Advowsons* as are granted by themselves, and are not appendant or appurtenant to a *Manor*) do not; and therefore it is said, That the Demandant *fuit seisiſt de Tenementis, Redditu & Communia p̄dictis cum p̄tinētia in dominio suo* (in his *Demefn*) *ut de feodo & jure, ac de Advocatione p̄dicta* (with-
out

out the words cum p̄tenciis, with the Appurtenances, or in Dominico suo, in his Demefn, but only) de feodo & jure &c.

The Form of a Precipe, to be Entred upon the Remembrance, in the Prothonotaries Office, for a Recovery with treble Voucher.

Salop. ff. Precipe Timotheo Cradock generoso qd fuisse &c. reddat Gilberto Leighton generoso Manerium de A. cum p̄t̄d ac decem mesuagia decem Tosta quatuor Molendina grana-
tica ventritica decem Columbaria decem Gardi-
na quingentas & sexaginta acras terre Centum
& quinquaginta acras prati Mille trescentas &
quinquaginta acras pasture Centum & quinquaginta
acras Bosci sexcentas acras Jampnozū
& Buere quadringentas acras Poze quinquaginta
acras Juncarie quadraginta acras Alneri
triginta acras Kulsarie viginti acras cerre aqua
cooperte liberam Piscariam in aqua de B. Alis-
bertatem Faldagii Liberam Marennam visum
Franci Plegii & quicquid ad visum Franci Ple-
gii p̄tinet cum p̄t̄d in A. B. C. & D. que clas-
mat &c.

In the Mar-
gent.

ff. Tenens in propria perso-
na vocat ad warantizand Dchq-
nem Hughes generosum, qui
p̄sens in p̄pria persona vocat
ad war Edwardum Davies ge-
nerosum, qui Aliter p̄sens in
p̄p̄t p̄sona voc Johem Wheeler
(the Common Vouchee.)

The Form of Entering the Recovery with treble Voucher, upon a Plea Roll, according to the Precipe above-written.

Salop. ff. Gilbertus Leighton generosus in propria persona sua petit versus Timotheum Craddock generosum Manerium de A. cum pertinentiis ac decem Mesuagia decem Tostia quatuor Molendina granatica ventritica decem Columbaria decem gardina quingentas & sexaginta acras terre centum & quinquaginta acras prati Mille crescent & quinquaginta acras Pasture centum & quinquaginta acras Bosci sexcentas acras Jampnon & Buere quadringentas acras Poze quinquaginta acras Juncarie quadraginta acras Alneti triginta acras Ruscarie viginti acras terre aqua cooperte Liberam Piscariam in aqua de B. Libertatem Faldagii Liberam Warennam visum Franci Plegii & quicquid ad visum Franci Plegii pertinet cum pertinentiis in A. B. C. & D. ut ius & hereditatem suam Et in que idem Timotheus non habet Ingressum nisi post disseisinam quam Hugo Hunt inde iniuste & sine Iudicio fecit prefatus Gilberto infra triginta annos &c. Et unde dicit quod ipsemet fuit seisinatus de Manerio Tenementis Libera Piscaria Libertate Faldagii Libera Warennam & visu Franci Plegii & quoquo ad visum Franci Plegii pertinet predictum cum pertinentiis in dominio suo ut de feodo & iure tempore pacis tempore Domini Regis & Domine Regine nunc capiendo inde Explestias ad balenciam &c. Et in que &c. Et inde producit sectam &c.

Et

Et predictus Timotheus in propria persona sua venit & defendit Jus suum quando &c. Et vocat inde ad warantizandum Othonem Hughes generosum qui p[re]sens est hic in Curia in propria persona sua Et gratis Panerium Tenementa Liberam Piscariam Libertatem Faldagii Liberam Warennam & visum Franci Plegii & quicquid ad visum Franci Plegii pertinet p[er] cum p[re]iud ei warantizat &c. Et super hoc predictus Gilbertus petit versus ipsum Timotheum tenentem per Warantiam suam Panerium Tenementa Liberam Piscariam Libertatem Faldagii Liberam Warennam & visum Franci Plegii & quicquid ad visum Franci Plegii pertinet p[er]dict cum p[re]iud in forma p[re]dicta &c. Et unde dicit q[uo]d ipsemet fuit seiscus de Panerio Tenementis Libera Piscaria Libertate Faldagii Libera Warennam & visu Franci Plegii & quoquo ad visum Franci Plegii pertinet p[re]dictis cum p[re]iud in Dominico suo ut de feodo & iure tempore pacis, tempore Domini Regis & Domine Regine nunc Capiendo inde Explecias ad valenciam &c. Et in que &c. Et inde producit legem &c.

Et p[re]dictus Otho Tenens p[er] Warantiam suam defendit Jus suum quando &c. Et ulterius vocat inde ad warantizandum Edwardum Davies generosum qui p[re]sens est hic in Curia in propria persona sua Et gratis Panerium Tenementa Liberam Piscariam Libertatem Faldagii Libam Warennam & visum Franci Plegii & quicquid ad visum Franci Plegii pertinet p[re]dict cum p[re]iud ei warantizat &c. Et super hoc p[re]dictus Gilbertus petit versus ipsum Edwardum Tenentem per Warantiam suam Panerium Tenementa Liberam Piscariam Libertatem

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bertatem Faldag Liberam Warennam & visum
Franci Plegii & quicquid ad visum Franci
Plegii pertinet predictum cum pertinentiis in forma pre-
dicta &c. Et unde dicit quod ipsemet fuit seiscitus
de Panerio Tenementis Libera Piscaria Li-
bertate Faldagii Libera Warennam & visum Fran-
ci Plegii & quoquo ad visum Franci Ple-
gii pertinet predictum cum pertinentiis in Do-
minico suo ut de feodo & iure tempore pa-
cis tempore Domini Regis & Domine Regine
nunc Capiendo inde Explestias ad valenciam &c.
Et in que &c. Et inde producit sextam &c.

Et predictus Edwardus Tenens per Warantiam suam
defendit Ius suum quando &c. Et ulterius vocat inde
ad warantizandum Johem Wheeler qui similiter
plens est hic in Curia in propria persona sua Et
gratis Panerium Tenementa Libera Piscari-
am Libertatem Faldagii Libera Warennam
& visum Franci Plegii & quicquid ad
visum Franci Plegii pertinet predictum cum pertinentiis
ei Warantizat &c. Et super hoc predictus Gil-
bertus petit versus ipsum Johannem Tenen-
tem per Warantiam suam Panerium Te-
nemente Libera Piscariam Libertatem Fal-
dagii Libera Warennam & visum Franci
Plegii & quicquid ad visum Franci Plegii per-
tinet predictum cum pertinentiis in forma predicta &c. Et un-
de dicit quod ipsemet fuit seiscitus de Panerio Te-
nementis Libera Piscaria Libertate faldagii Li-
bera Warennam & visum Franci Plegii & quoquo
ad visum Franci Plegii pertinet predictum cum pertinentiis
in dominico suo ut de feodo & iure tempore pa-
cis tempore Domini Regis & Domine Regine
nunc Capiendo inde Explestias ad valenciam &c.
Et in que &c. Et inde producit sextam &c.

Et

Et p̄dictus Iohes Tenens p̄ Marantiam suam defendit Ius suum quando &c. Et dicit qđ p̄dictus Hugo non disseisivit p̄fat̄ Gilbertum de Manerio Tenementis Libera Piscaria Libertate Faldagii Libera Marennā & visu Franci Plegii & quoquo ad visum Franci Plegii p̄tinet p̄dictis cum p̄iud̄ put̄ idem Gilbertus per h̄be & narrationem sua p̄dicta superius supponit. Et de hoc ponit se sup̄ Patriam &c.

Et p̄dictus Gilbertus petit Licenciam inde Interloquendi Et habet &c. Et postea idem Gilbertus revenit hic in Cur̄ isto eodem Terminō in p̄pria p̄sona sua Et p̄dictus Iohes licet solempniter exactus non revenit set in contemptum Curie recessit & defaltam facit. Ideo consideratum est qđ p̄dictus Gilbertus recuperet seisinam suam versus p̄fatum Timotheum de Manerio Tenementis libera Piscaria Libertate Faldagii Libera Marennā & visu Franci Plegii Et quoquo ad visum Franci Plegii p̄tinet p̄dictis cum p̄iud̄ Et qđ idem Timotheus ulterius habeat de terra p̄dicti Othonis ad valenciam &c. Et qđ idem Ocho ulterius habeat de terra p̄dicti Edwardi ad valenciam &c. Et qđ idem Edwardus ulterius habeat de terra p̄dicti Johannis ad valenciam &c. Et idem Johannes in misericordia &c. Et sup̄ hoc idem Gilbertus petit h̄be Domini Regis & Domine Regine Vicecomiti Comitatus p̄dicti dirigend̄ de habere faciend̄ ei plenariam seisinam de Manerio Tenementis Libera Piscaria Libertate Faldagii Libera Marennā & visu Franci Plegii & quoquo ad visum Franci Plegii p̄tinet p̄dictis cum p̄tinentiis Et ei conceditur retornabile hic a die Sancti Martini in quindecim dies &c. Ad quem diem hic venit p̄dictus

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Idiculus Gilbertus in propria persona sua. Et vicecomes videlicet S. T. Baronettus modo mandat quod ipse virtute brevis illius sibi directi vicefimo quarto die Novembris ultimo preterito habere fecit prefatus Gilberto plenariam seisinam de Manerio Tenementis Libera Piscaria Libertate Faldagii Libera Maremma & visu Franci Plegii & quoquo ad visum Franci Plegii pertinet cum pertinentiis per breve illud sibi preceptum fuit &c.

Note, in this third Recovery with treble Voucher, the Parcels are various; viz. A Manor, Mesuages, Tofts, Mills, Dove-Houses, Gardens, Land, Meadow, Pasture, Wood, Furze and Heath; Moor, Reeds, Alder; Rushes, Land covered with Water, Free-Fishing, Liberty of Faldage, Free-Warren, View of Franck Pledge, &c.

Wherein is to be Observed;

First, That a Manor hath particularly cum pertinenciis to it self, notwithstanding all the other Parcels have the same likewise.

Secondly, That here all the Parcels lye in the Demefn.

Thirdly, That they are particulariz'd in the Demand, Warranty, and laying of the Seisin, by the Names of the Manors, Tenements, Free-fishing, Liberty of Faldage, Free-Warren and view of Frank Pledge, and whatsoever to view of Franck Pledge appertaineth, &c.

A Precipe for a Recovery with four Vouchers.

Hanc it. Precipe Mattheo Willson generoso quod iuste &c. reddat Parmaduco Stevenson generoso

neroso Honorem de A. cum p̄t̄id Castrum de B.
 cum p̄t̄id Panerium de C. cum p̄t̄id Forestam
 de D. cum p̄t̄id Chaleam de E. cum p̄t̄id &
 Parcum de F. cum p̄t̄id ac Scitum nuper
 Monasterii de B. cum p̄t̄id Pecnon quadragin-
 ta Meluagia viginti Cotagia triginta Costa
 decem Molendina sexagint Columbaria quin-
 quaginta gardina sex Mille acras Terre sex-
 centas acras Prati decem Mille acras Pasture
 duas Mille acras Bosci quatuor Mille acras
 Parilci salti Octoginta librat Reddit ac Red-
 dit Mille & quingentor Galloz & duar Mille
 Gallinar acetiam Offitium Ballivat de C. cum
 p̄t̄id Et Communiam Pasture p omnibus
 & omnimodis Aberiis ac tres Wharfes & qua-
 tuor Baia cum p̄t̄id Pecnon Pundinum &
 Percatum cum p̄t̄id ac Curiam Lete Curiam
 Baronis & vilum Franci Mlegii cum p̄t̄id Et
 Bona & Catalla Felonum & Fugitivor Felo-
 num de se Extrahur Deodanda ac Bona & Ca-
 talla Mabiata & in Crigendo posita acetiam
 Rectozias de A. B. C. D. E. & F. cum p̄t̄id
 ac omnes & omnimodas Decimas eisdem Recto-
 riis spectand & pertined cum p̄t̄id in A. B. C.
 D. E. F. & B. que claud &c.

To be writ-
 ten in the
 Margin.

A. Tenens in propria p̄sona vo-
 cat ad Mar Josephum Philpot
 Armigerum, qui similiter pre-
 lens in propria persona vocat
 ad Marancizand Martinum
 Lyster Armigerum, qui simili-
 ter prelens in propria persona
 vocat ad Marancizand Luci-
 um Edolph Gess qui similiter
 prelens in propria p̄sona vocat
 Johannem Wheeler.

A

A Recovery with four Vouchers, upon the
Precipe above written.

Hanc R. Parmaducus Stevenson generosus
in propria persona sua petit versus Mattheum
Wilson generosum Honorem de A. cum perti-
nenciis Castrum de B. cum pertinentiis Pane-
rium de C. cum pertin. Forestam de D. cum
prinenciis Chaleam de E. cum prinenciis &
parcum de F. cum prinenciis ac Scitum nup
Monasterii de B. cum prinenciis Pecnon qua-
draginta Meluagia viginti Cotagia triginta
Tosta decem Molendina sexaginta Columbaria
quingenta Gardina sex Mille acras Terre
secentas acras Prati decem Mille acras Pasture
duas Mille acras Bosci quatuor Mille acras Pa-
risci salsi Octoginta Libras Reddit & Reddit
Mille & quingentorum Gallozum & duarum
Mille gallinarum cum pertinentiis acceiam
Officium Balliva de C. cum pertinentiis Et
Communita Pasture pro omnibus & omnimodis
Averis ac tres Tharfas & quatuor Katas cum
pertinentiis Pecnon Pundinum & Mercatum
cum prinenciis Ac Cur Lete, Cur Baron &
vilum Franci Plegii cum prinenciis Et Bona
& Catalla Felonum & Fugitivorum Felonum
de se Extrahur Deodanda ac Fona & Catalla
Mabilia & in Exigend possit Aceciam Rectori-
as de A. B. C. D. E. & F. cum pertinentiis
ac omnes & omnimodas Decimas eisdem Recto-
riis spectand & pined cum prin. in A. B. C.
D. E. F. & B. ut jus & Hereditatem suam Et in
que idem Mattheus non habet Ingressum nisi
post disseisinam quam Hugo Hunt inde injuste
& sine Iudicio fecit prefat Parmaduco infra tri-
ginta

ginta annos &c. Et unde dicit qđ ipsemet fuit
 seiscus de Honore Castro Panerio Foresta
 Chacea Parco Scitu nuper Monasterii Tene-
 mentis Reddit Officio Ballivat Communia
 Wharfis Baiis Runding Mercato Cur Lete
 Cur Baron vis Franci Plegii Wons & Catal-
 lis Felonum & Fugitivorum Felonum de se
 Extrahit Deodandis ac Wons & Catallis
 Wabiat & in Erigend possit Rectoris & om-
 nibus & omnimodis Decimis eisdem Rectoris
 spectand & ptenend pdictis cum ptenid in Domi-
 nico suo ut de feodo & iure tempore pacis tem-
 pore Domini Regis & Domine Regine nunc
 Capiendo inde Explestas ad valenciam &c. Et
 in que &c. Et inde producit lectam &c.

Et predictus Partheus in propria persona
 sua venit & defendit Jus suum quando &c. Et
 vocat inde ad Warantizand Josephum Philpot
 Armigerum qui ptesens est hic in Curia in
 propria persona sua Et gratis Honorem Castri
 Panerium Forestam Chaceam Parcum Scitu
 nuper Monasterii Tenementa Reddit Officium
 Ballivat Communiam Wharfis Baias Run-
 dinum Mercatum Cur Let Cur Baron vis
 Franci Plegii Wons & Catalla Felonum & Fu-
 gitivorum Felonum de se Extrahit Deodand
 Wons & Catalla Wabiat & in erigend possit
 Rectoris & omnes & omnimodas Decimas eis-
 dem Rectoris spectand & ptenend pdict cum ptenid
 ei warantizat &c. Et super hoc pđ Partheadicus
 petit. Illud ipsud Josephum tenentem p warancia
 sua Honorem Castri Panerium Forestam Chacea
 Parcū Scitu nuper Monastii Tenta Reddit
 Officiū Ballivat Communia Wharfis Baias
 Runding Mercatū Cur Let Cur Baron vis
 Franci Plegii Wons & Catalla Felonum &
 Fu-

Fugitivorum Felonum de se Extrahat Deo-
dand & Bona & Catalla wabiat & in Exigend po-
sit Rectorias & omnes & omnimodas decimas eis-
dem Rectoriis spectand & pertinen pō cum pñd
in forma pñda &c. Et unde dicit qđ ipsemet
fuit sessicus de Honore Castro Panerio Foressa
Chacea Parco Scitu nuper Monasterii Tene-
mentis Reddit Officio Ballivat Communia
Wharhis Baiis Pundino Mercato Cur Let
Cur Baron vis Franc Pleg Bonis & Catal-
lis Felonum & Fugitivorum Felonum de
se Extrahat Deodand & Bonis & Catallis
wabiat & in Exigend possit Rectorias & om-
nibus & omnimod Decimis eisdem Rectoriis
spectand & pertinen pñct cum pñd in do-
minico suo ut de feodo & fure tempore pacis
tempore Domini Regis & Domine Regine
nunc capiend inde Explez ad valenciam &c. Et
in que &c. Et inde producit sedam &c.

Et pñctus Iosephus Tenens per Waranti-
am suam defendit Ius suum quando &c. Et
ulterius vocat inde ad warantizandum Marti-
num Lyfter Armigerum qui pñsens est hñc in
Curia in pñpria persona sua Et gratis Hono-
rem Castrum Panerium Foressam Chaceam
Parcum Scitum nup Monasterii Tenementa
Reddit Officiu Ballivat Communiam Whar-
has Baias Pundinum Mercatum Cur Let
Cur Baron visum Franci Pleg Bona & Ca-
talla Felonum & Fugitivorum Felonum de se
Extrahat Deodand & Bona & Catalla Wabiat
& in Exigendo possit Rectorias & omnes & omni-
modas Decimas eisdem Rectoriis spectand & per-
tinen pñda cum pñd et war &c. Et sup hoc
pñctus Parmaducus petit versus ipsum Mar-
tinum Tenentem per Warantiam suam Hono-
rem

rem Castrum Panerium Forestam Chaleam
 Parcum Scitum nuper Monasterii Tenementa
 Reddit Officium Balliui Communiam Char-
 tas Ratas Rerundinum Mercatum Cur' et Cur'
 Baron' visum Franc' Pleb' Bonis & Catalla
 Felonum & Fugitivorum Felonum de se Ex-
 trahur Deodanda & Bonis & Catalla iurabat & in
 Exigendo posita Rectorias & omnes & omnimo-
 das Decimas eidem Rectoriis spectant & perti-
 nent in forma posita &c. Et unde dicit qd ip-
 semet fuit testis de Honore Castro Panerio
 Foresta Chalea Parco Scitu nuper Monasterii
 Tenementis Reddit Officio Balliui Commu-
 nia Charis Ratis Rerundino Mercato Cur' et Cur'
 Cur' Baron' vis Franci Pleb' Bonis & Catallis
 Felonum & Fugitivorum Felonum de se Ex-
 trahur Deodandis & Bonis & Catallis iurabi-
 at & in Exigendo posita Rectoriis & omnibus &
 omnimodis Decimis eidem Rectoriis spectant &
 pertinent posita cum pertinentis in dominico
 suo ut de feodo & iure tempore pacis tempore
 Domini Regis & Domine Regine nunc Cap-
 endo inde Expleas ad valenciam &c. Et in
 que &c. Et inde producit sextam &c.

Et postquam Martinus Tenens per Waran-
 tiam suam defendit Ius suum quando &c. Et
 alterius vocat inde ad Warantizandum Lucium
 Coloph' generosum qui presens est hic in Curia
 in propria persona sua Et gratis Honorem Ca-
 strum Panerium Forestam Chaleam Parcum
 Scitum nuper Monasterii Tenementa Reddit
 Officium Balliui Communiam Charas
 Ratas Rerundinum Mercatum Cur' et Cur'
 Baron' vis Franc' Pleb' Bonis & Catalla Fe-
 lonum & Fugitivorum Felonum de se Extrah-
 uras

huras Deodanda & Bona & Catalla Mabiāt & in
 Exigend possit Rectorias & omnes & omnimodas
 Decimas eisdem Rectoriis spectand & pertineid
 predicta cum pertind ei warrantizat &c. Et sup
 hoc p̄dictus Parmaducus petit versus ipsum Lu-
 tium Tenentem per Warantiam suam Hono-
 rem Castrum Panerium Forestam Chaleam
 Parcum Scitum nuper Monasterii Tenementa
 Reddit Officium Ballivat Communiam Mhar-
 fas Kafas Pundinum Mercatum Cur Let Cur
 Baron visum Franci Plegii Bona & Catalla
 Felonum & Fugitivorum Felonum de se Ex-
 trahuras Deodanda & Bona & Catalla Mabiāt
 & in exigend possit Rectorias & omnes & omni-
 modas Decimas eisdem Rectoriis spectand &
 pertineid predicta cum pertind in forma predicta
 &c. Et unde dicit qd̄ ipsemet fuit scissus de
 Honore Castro Panerio Foresta Chalea Parco
 Scitu nuper Monasterii Tenementis Reddit
 Officio Ballivat Communia Mharfis Kafis
 Pundino Mercato Cur Let Cur Baron visu
 Francii Plegii Bonis & Catallis Felonum
 & Fugitivorum Felonum de se Extrahuris De-
 odandis & Bonis & Catallis Mabiāt & in Exi-
 gend possit Rectoriis & omnibus & omnimodis
 Decimis eisdem Rectoriis spectand & ptinen
 p̄dictis tunc pertind in Dominica sua ut de leo-
 do & iure tempore pacis tempore Domini Regis
 & Domine Regine nunc Capiend inde Explest
 as ad valenciam &c. Et in que &c. Et inde pro-
 ducit legam &c.

Et p̄dictus Lucius Tenens per Warantiam
 suam defendit Jus suum quando &c. Et ulte-
 rius vocat inde ad Warantizandum Johem
 Wheeler qui similiter p̄sens est hic in Curia
 in

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in propria persona sua Et gratis Honorem Cas-
trum Manerium Forestam Chaceam Parcum
Scitum nuper Monasterii Tenementa Reddit
Officium Ballivae Communiam Wharfas
Raias Pundinum Mercatum Cur' Let Cur'
Baron' vis Franci Plegii Bona & Catalla Fe-
lonum & Fugitivorum Felonum de se Extrah-
tur Deodand & Bona & Catalla Waviat & in
Exigend' possit Rectorias & omnes & omnimodas
Decimas eisdem Rectoriis spectand' & pertinen-
d' cum pertind' ei Warantizat &c. Et super
hoc p'dict' Parmaducus petit versus ipsum Jo-
hannem Tenentem per Warantiam suam Ho-
nozem Castrum Manerium Forestam Chaceam
Parcum Scitum nuper Monasterii Tenementa
Reddit Officium Ballivae Communiam Whar-
fas Raias Pundinum Mercatum Cur' Let Cur'
Baron' vis Franci Pleg' Bona & Catalla Felo-
num & Fugitivorum Felonum de se Extrahur
Deodand & Bona & Catalla Waviat & in Exi-
gend' possit Rectorias & omnes & omnimodas De-
cimas eisdem Rectoriis spectand' & pertinen-
d' cum pertind' in forma p'dicta &c. Et
unde dicit qd ipsemet fuit seiscitus de Honore
Castro Manerio Foresta Chacea Parco Scitu
nuper Monasterii Tenementis Reddit Officio
Ballivae Communia Wharfis Raiis Pundi-
no Mercato Cur' Let Cur' Baron' vis Franci
Pleg' Bonis & Catallis Felonum & Fugiti-
vorum Felonum de se Extrahur Deodand &
Bonis & Catallis Waviat & in Exigend' possit
Rectoriis & omnibus & omnimodis Decimis eis-
dem Rectoriis spectand' & pertinen-
d' cum pertind' in Dominico suo ut de feodo & jure tem-
pore pacis tempore Domini Regis & Domine
Regine nunc capiend' inde Explestias ad valen-
ciam

ciam &c. Et in que &c. Et inde pducit sectam &c.

Et pdictus Johannes Tenens per Waran-
tiam suam defendit Jus suum quando &c. Et
dicit qd pdictus Hugo non disseisivit pstatum
Parmaducum de Honore Castro Manerio Fo-
resta Chacea Parco Scitu nuper Monasterii Te-
nementis Reddit Officio Ballivat Communia
Wharfis Ralis Pundino Percato Cur Let
Cur Baron vis Franc Pleg Bonis & Catallis
Felonum & Fugitivorum Felonum de se Ex-
trahur Deodand & Bonis & Catallis Wabiat &
in Exigens possit Rectoriis & omnibus & omni-
modis Decimis eisdem Rectoriis spectand & per-
tineid p predictis cum pertin prout idem Par-
maducus per breve & narrationem sua pdicta
superius supponit Et de hoc ponit se super Pa-
triam &c.

Et pdictus Parmaducus petit licenciam inde
Interloquendi Et habet &c. Et postea idem
Parmaducus revenit hic in Curia in propria
persona sua Et pdictus Johannes licet solemp-
niter exactus non revenit set in Contemptum
Curie recessit & defaltam fecit Ideo Considera-
tum est qd pdictus Parmaducus recuperet sei-
sinam suam versus pstatum Mattheum de Ho-
nore Castro Manerio Foresta Chacea Parco
Scitu nuper Monasterii Tenementis Reddit
Officio Ballivat Communia Wharfis Ralis
Pundino Percato Cur Let Cur Baron vis
Franc Pleg Bonis & Catallis Felonum &
Fugitivorum Felonum de se Extrahur Deo-
dand & Bonis & Catalis wabiat & in Exigens
possit Rectoriis & omnibus & omnimodis Decimis
eisdem Rectoriis spectand & pertineid pdictis cum
prin Et ei concedit retornabile hic indilate &c.
Postea scit duodecimo die Februar isto eodem
Ter-

Termino venit hic in Curia p̄dictus Parmas-
 ducus in propria persona sua Et Vicecomes vi-
 delicet A. L. Miles modo mand qđ ipse virtute
 h̄ebis illius sibi directi nono die Feb̄uarii ul-
 timo p̄terito habere fecit p̄fato Parmaduco ple-
 nariam seisinam de honore Castro Manerio Fo-
 resta Chacea Parco Scitu nuper Monasterii Te-
 nementis Redditibus Officio Ballivaf Commu-
 nia Wharfis Baiis Pundino Mercato Cur Let
 Cur Baron visu Franci Plegii Bonis & Ca-
 tallis Felonum & Fugitivorum Felonum de se
 Extrahuris Deodandis & Bonis & Catallis wa-
 viat & in Exigend possit Rectoriis & omnibus &
 omnimodis Decimis eisdem Rectoriis spectan-
 & pertinen p̄dictis cum pertind prout per breve
 illud sibi p̄ceptum fuit &c.

Note, In this fourth Recovery, with qua-
 druple Voucher, three things are to be obser-
 ved.

First; That all the Parcels lye in De-
 mesn.

Secondly, That the Honor, Castle, Ma-
 nor, Forest, Chase, Park, scite of the late
 Monastery, Rents, Office of Bailiff, Com-
 mon, Wharfs, Keys, Fair, Market, Courts
 Lete, Courts Baron, view of Frank Pledge,
 Goods and Chattels of Felons, and Fugitives,
 Felo's de se, Estrayes, Deodands, and Goods
 and Chattels of Persons waived and sued to
 the Exigent, Rectories, and all and all man-
 ner of Tythes to the same Rectories belong-
 ing and appertaining, have all cum pertinens
 added to them; and are all of them par-
 ticularly named in the demand, Warranty,
 and laying of the Seisin.

X 2

Thirdly,

Of the Practice of the

Thirdly, That the other Parcels mentioned in this Recovery (that is to say) the Mesuages, Cottages, Tofts, Mills, Dove-houses, Gardens, Land, Meadow, Pasture, Wood, and salt Marsh, go all under the denomination of Tenements, and so are Demanded, Waranted and Named in laying the Seisin.

Fourthly, It is to be observed in all the Recoveries before recited, and in all others extending to as many Vouchers more, as possibility can allow, That a Recovery with one Voucher doth demonstratively contain in it two Recoveries, the one by the Demandant against the Tenant, and the other by the Tenant against the Common Vouchee: In like manner a Recovery with two Vouchers hath three Recoveries in it, viz. The first by the Demandant against the Tenant, the second by the Tenant against the first Vouchee, and the third by the first Vouchee against the Common Vouchee: So, in all treble Vouchers, there are four Recoveries mentioned (1.) By the Demandant against the Tenant. (2.) By the Tenant against the first Vouchee. (3.) By the first Vouchee against the second Vouchee. And lastly, by the second Vouchee against the Common Vouchee; and so of Recoveries with four, five, or more Vouchers.

Note, The Writ of seisin must be returnable fifteen days after the Return of the Writ of Entry, at the least, if there be so many days between the Return thereof, and the last day of the Term. But if there be not so many days between, then the Writ of

seisin

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feizin must be returnable *indilate*, and always bear Teste of the Return of the Writ of Entry.

And Note, when the Writ of Seisin is returnable *indilate*, the Demandant in such Case, is supposed to come into Court the last day of the Term, and the Sheriff to return Seisin delivered three days before, as will appear by the Entries of the Recoveries above-mentioned.

Having thus far given you Precedents for Precipe's, and Entries of Recoveries with single, double, treble and quadruple Vouchers, where all the Parties appear at the Bar in person; we shall in the next place shew you how to manage a Recovery where the Tenant appears by warrant of Attornay taken by *Dedimus*, and the Vouchee comes in by Summons served upon him by the Sheriff of the County.

The Form of the Writ of Summons.

Gulielmus & Maria Dei gracia Anglie
 Scocie Francie & Hibernie Rex & Regina Fi-
 dei Defensores &c. vic C. salutem Summoneto
 per bonos Summonitozes Johannem Frich
 gen qd sit coram Justiciariis nostris apud
 Westmonasterium in Crastino Ascensionis Do-
 mini ad Warantizandum Jacobo Elder gen
 octo Mesuagia quinque Tosta unum Molendi-
 num granaticum ventriticum decem Cardina-
 ducentas acras Terre triginta acras Prati Cen-
 tum & quinquaginta acras Pasture centum acras
 Pampnozum & Buere ducentas acras Poze
 Communiam Pasture pro omnibus & omnimo-

Of the Practice of the

dis Averis & Communiam Turbarie cum pertinenciis in C. & D. Que Walterus English generosus in Curia nostra coram Justiciariis nostris apud Westmonasterium Clamat ut Jus suum versus prefatum Jacobum per Breve nostrum de Ingressu super Disseisinam in le Post. Et unde idem Jacobus in eadem Curia nostra vocat predictum Johannem summonitum in Comitatu tuo ad Warantizandum versus eum Et habeas ibi summonitores & hoc breve Teste Georgio Treby apud Westm (tali die) Anno Regni nostri quinto.

Note this Writ must be retournable five Returns inclusive, after the Return of the Writ of Entry, accounting the first and last of the five Returns, each for one; as if the Writ of Entry be retournable Quindena Pasche, the Writ of Summons must be returnable Crastino Ascensionis; Or if the Writ of Entry be retournable Crastino Martini, the Summons must bear Teste from that Return, and be returnable Quindena Hillarii, and the Teste of the Writ of Seisin must be the Teste day of that fifth Return, and be returnable indilate, because you cannot have fifteen days after that Return in Hillary Term. Then the Sheriff may make his Return upon the Writ of Seisin, That he caused Seisin to be delivered to the Demandant of the Lands contained in the Recovery, upon any day, not being Sunday, between the Teste of the Writ of Seisin and the end of the Term, if possibly it can be supposed that he could come from the place where the Lands lye to Westminster Hall, before the Court of Common Pleas be Adjourned on the last day of the Term.

The

The manner of Entering the Writ of Summons upon the Roll in the Prothonotaries Office.

Cumbr' ff: *Walterus* English generosus in propria persona sua petit versus *Jacobum El-der* generosum octo *Mesluagia* quinque *Tosta* unum *Molendinum* granaticum ventriticum decem gardina ducentas acras terre triginta acras prati Centum & quinquaginta acras pastus re Centum acras *Tampnoz* & *Buere* ducentas acras *Moze* Communiam pasture pro omnibus & omnimodis *Averis* & Communiam *Turbarie* cum pertinentiis in C. & P. ut *Ius* & hereditatem suam Et in que idem *Jacobus* non habet ingressum nisi post disseisinam quam *Hugo Hunt* inde injuste & sine Iudicio fecit prefat' *Waltero* infra triginta annos &c.

Et predictus *Jacobus* per J. P. *Attorn* suum venit & defendit *Ius* suum quando &c. Et vocat inde ad warantizandum *Johannem Frith* generosum suum in Comitatu predicto habeat eum hic in Crastino Ascensionis Domini per Auxilium Curie &c. Idem dies datus est par-tibus predictis hic &c.

Note, where there is a *Dedimus* for the Tenant, who thereupon puts in his Attorney, by whom he appears and defends the Action, in such case the Entry of the Writ of Summons to call the Vouchee to Warranty must go no farther then infra triginta annos, &c.

The manner of Entering the Recovery, being with double Voucher, upon the Summons above-mentioned.

Cumbr' ff. *Walterus* English generosus in propria persona sua petit versus *Jacobum Elder* generosum octo *Pesluagia* quinque *Tostia* unum *Molendinum* granaticum ventriticum decem gardina ducentas acras terre triginta acras prati Centum & quinquaginta acras pasture Centam acras *Fampnozum* & *Bzuere* ducentas acras *Moze Communiam* Pasture pro omnibus & omnimodis *Averis* & *Communiam Turbarie* cum pertinenciis in C. & D. ut Jus & hereditatem suam Et in que idem *Jacobus* non habet Ingressum nisi post disseisinam quam *Hugo Hunt* inde injuste & sine Judicio fecit prefato *Waltero* infra triginta annos &c.

Et predictus *Jacobus* per J. R. Attoznatum suum venit & alias vocat inde ad warantizandum *Johannem Frith* generosum qui modo per Summonitionem ei in Comitatu predicto factam per W. J. Attoznatum suum similiter venit Et gratis Tenementa & Communias predicta cum pertinenciis ei warantizat &c. Et super hoc predictus *Walterus* petit versus ipsum *Johannem Tenentem* per Warantiam suam Tenementa & Communias predicta cum pertinenciis in forma predicta &c. Et unde dicit qd ipsemet fuit seissitus de Tenementis & Comuniis predictis cum pertinenciis in Dominico suo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Regine nunc capiendo inde *Explestias* ad valenciam &c. Et in que &c. Et inde producit sectam, &c.

Et

Et p̄dict' Iohes tenens' p̄ warant' suā venit & defendit ius suū quando ꝛc. Et ulterius vocat inde ad warantizand' Iohem Wheeler qui similiter p̄sens est hic in Cur' in p̄pria p̄sona sua Et gratis Tenementa & Communias p̄dict' cum p̄tin' ei warantizat ꝛc. Et super hoc p̄dict' Walterus petit q̄d ius iplum Iohem Wheeler tenend' p̄ warant' suā Tenement' & Communias p̄dict' cum p̄tin' in forma p̄dict' ꝛc. Et unde dicit q̄d ipsemet fuit seissit de Tenementis & Comuniis p̄dict' cum p̄tin' in dominico suo ut de feodo & iure tempore pacis tempore dñi Regis & dñe Regine uunc captend' inde Exple's ad valenciam ꝛc. Et in que ꝛc. Et inde producit sectam ꝛc.

Et p̄dictus Johannes Wheeler Tenens per Warantiam suam defendit ius suum quando ꝛc. Et dicit q̄d p̄dictus Hugo non disseissit p̄fat' Walterum de Tenementis & Comuniis p̄dictis cum pertinentiis p̄out idem Walterus per Breve & Narrationem sua p̄dicta superius supponit Et de hoc ponit se super Patriam, ꝛc.

Et p̄dictus Walterus petit licenciam Interloquendi Et habet ꝛc. Et postea idem Walterus reuenit hic in Curia isto eodem Termino in p̄pria persona sua Et p̄dictus Johannes Wheeler licet solempniter exactus non reuenit set in Contemptum Curie recessit & defaltam facit Ideo Consideratum est q̄d p̄dictus Walterus recuperet seissinam suam versus p̄fatum Jacobum de Tenementis & Comuniis p̄dictis cum pertinentiis Et q̄d idem Jacobus habeat de terra p̄dicti Iohannis Frith ad valenciam ꝛc. Et q̄d idem Johannes Frith ulterius habeat de terra p̄dicti Iohannis Wheeler ad valenciam ꝛc. Et idem Iohannes
neg

nes Wheeler in misericordia &c. Et super hoc predictus Walterus petit Breve Domini Regis & Domine Regine vic^o Com^o predicti dirigend^o de habere faciend^o ei plenariam seisinam de Tenementis & Communiis predictis cum pertinentiis Et ei Conceditur recognabile hic indilate &c. Postea scilicet (tali die) isto eodem Termino venit hic in Curia predictus Walterus in propria persona sua Et vicecomes videt^r J. L. Baronettus modo mandavit qd ipse virtute Brevis predicti sibi directi decimo septimo die Passi ultimo preterito habere fecit prefato Waltero plenariam seisinam de Tenementis & Communiis predictis cum pertinentiis prout p Breve illud sibi preceptum fuit &c.

Note, That the Writ of Seisin must be returnable at the least fifteen days after the Return of the Writ of Entry, whether the Recovery comes in by Summons or not, and bear Teste of the Return of the Writ of Entry ; but in such cases where the Writ of Entry is returnable so near the end of the Term, that there cannot be fifteen days between, there the Writ of Seisin must be returnable (*indilate*) as in the Precedent last recited.

Entry of a Writ of Summons upon a Recovery with Treble Voucher, where the Tenant first appears in person at the Bar, and after puts in a Warrant of Attorney, and the Vouchees come in by Summons.

Suffex' ff. Georgius Lownds generosus in propria persona sua petit versus Humfridum Andrews generosum Paverium de C. cum pertinentiis

tinenciis ac Parcum de G. cum pertinenciis
 Pecnon duodecim Mesuagia sex Tosta quatuor
 Molendina octo Columbaria decem Cardina
 Mille & quingentas Acras Terre ducentas &
 quinquaginta Acras Prati tres Mille Acras
 Pasture centum & quinquaginta Acras Bosci
 quingentas & quinquaginta Acras Parisci
 Communiam Pasture pro omnibus & omnimo-
 dis Aberiis cum pertinenciis Aceciam Cur' Let
 Cur' Baron' Wils Franc' Pleig & quicquid ad
 Wilsu Franci Pleigii pertinet cum pertinen-
 ciis in G. R. & K. Pecnon Rectorias de G.
 F. & K. ac omnes & omnimodas decimas eisdem
 Rectoriis spectan' & pertinen' cum pertinenciis
 ut jus & Hereditatem suam Et in que idem
 Humfridus non habet ingressum nisi post dis-
 seisinam quam Hugo Hunt inde injuste &
 sine iudicio fecit prefat' Georgio infra triginta
 annos &c.

Et predictus Humfridus in propria persona
 sua venit & defendit jus suum quando &c. Et
 vocat inde ad Warantizandum Jonam Willi-
 ams generosum habeat eum hic in octabis San-
 cti Martini & sum' in Comitatu predicto per
 Auxilium Curie &c. Idem dies dafest, partibus
 predict' hic &c. Et super hoc predict' Humfri-
 dus ponit loco suo G. S. & L. D. Attoznatos
 suos conjunctim & divisim versus prefat' Geo-
 rgium de predicto placito &c.

Note, That notwithstanding the Tenant
 appeared in person at the Bar of the Court
 of *Common Pleas*, at the acknowledgment of
 this Recovery, yet because he did not appear
 there likewise at the Return of the Summons
 in person, therefore he puts in a Warrant of
 Attorney; the form whereof is as followeth.

Suffex'

Suffex' ff. Humfridus Andrews generosus ponit loco suo Georgium Selby & Lumleum Dew Attoꝝ suos conjunctim & divisim versus Georgium Lownds generosum de placito terre.

Note, There are always two Attornies put into the Warrant, lest one of them should dye before the Recovery be perfected.

Note, This Warrant of Attorney must be Entred upon the first Summons Roll, and upon the Remembrance under the Precipe or Abstract of the Writ of Entry.

If the first Vouchee appears by Warrant of Attorney upon the Writ of Summons above-mentioned, you must put in a VVarrant of Attorney for him after this manner.

Suffex' ff. Jonas Williams generosus quem Humfridus Andrews generosus vocat ad Warrantizandum ponit loco suo Josephum Girdler & Willielmum Johnson Attoꝝnatos suos conjunctim & divisim versus Georgium Lownds generosum de placito terre.

Then you must make out another VVrit of Summons for the second Vouchee, returnable the fifth Return after *Octabis Martini*, (the Return of the first Summons,) which is *Craftino Purificationis*, and Teste of the Return of the first Summons.

Upon which last Summons, if the second Vouchee appears likewise, by VVarrant of Attorney, you must put in a VVarrant of Attorney for him, the form whereof is thus ;

Suffex'

Suffex ff. Leonardus Hopton Armiger quem
Jonas Williams generosus vocat ad Waranti-
zand ponit loco suo Gervasium Giles & Her-
bertum Evans Attozatos suos conjunctim & di-
visim versus Georgium Lownds generosum de
placito terre.

To every such VVarrant of Attorney you
must put the Caption at the bottom on the
left hand, mentioning the day of the Month
and Year when it was taken, to which the
Judge or other person before whom it was
taken must set his Hand, the form whereof
is thus;

Capit & cognit quinto die Martii Anno Reg-
ni Regis & Regine Gulielmi & Marie An-
glie &c. Quinto coram me

Jo. Powell.

The manner of Enttring the first Summons
for the first Vouchee, with the VVarrant
of Attorney for the Tenant.

Alias prout patet Termino Sancti Michaelis
Anno Regni Domini Regis & Domine Regine
nunc quarto Rotulo tricesimo continetur sic
Suffex ff. Georgius Lownds generosus in pro-
pria persona sua petit versus Humfridum An-
drews generosum Panerium de G. cum per-
tinenciis ac Parcum de G. cum pertinenciis
Pecnon duodecim Mesuagia sex Tosta quatuor
Molendina octo Columbaria decem Cardina
Mille & quingentas Acras Terre ducentas &
quinguingenta Acras Prati tres Mille Acras
Pa

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Pasture centum & quinquaginta Acres Bosci
 quingentas & quinquaginta Acres Parisci Com-
 muniam Pasture pro omnibus & omnimodis
 Avertis cum pertinentiis Acetiam Cur' Let
 Cur' Baron' Wils Franc' Pleg & quicquid ad
 Wils Franc' Pleg p'inet cum p'inentiis in G.
 & R. Pecnon Rectorias de G. F. & R. ac omnes
 & omnimodas decimas eisdem Rectoriis spectand
 & p'inent cum p'inentiis ut sus & Hereditatem
 suam Et in que idem Humfridus non habet in-
 gressum nisi post disseisinam quam Hugo Hunt
 inde injuste & sine iudicio fecit p'efat' Georgio
 infra triginta annos &c. Et p'edictus Humfri-
 dus in propria persona sua venit & defendit sus
 suum quando &c. Et vocat inde ad Maranti-
 zandum Jonam Williams generosum habeat
 eum hic in Octabis Sancti Martini & suum in
 Comitatu p'dict per Auxiliu' Curie &c. Idem
 dies datus est Partibus p'dict hic &c. Et sup
 hoc p'dict Humfridus ponit loco suo Georgium
 Stone & Samuelem Denton Atornatos suos
 conjunctim & divisim versus p'efatum Georgiu'
 de p'dict Placito &c. Et modo hic ad hunc
 diem scilicet p'dict Octabas Sancti Martini
 venit tam p'dict Georgius in propria persona
 sua quam p'dict Humfridus per G. S. Ator-
 natu' suu' p'dict Et p'dict Jonas summo-
 nitus &c. per J. S. Atornatu' suu' similiter ve-
 nit Et gratis Panerium Parcu' Tenementa
 Communia Cur' Let Cur' Baron' Wilsu'
 Franci Plegii & quicquid ad Wilsu' Franci
 Plegii p'inet Rectorias ac decimas p'dict cum
 p'inentiis ei Marantizat &c. Et super hoc p'dict
 Georgius petit s'us ipsum Jonam Tenentem
 per Marantiam suu' Paneriu' Parcu' Tene-
 menta Communiam Cur' Let Cur' Baron'
 Wi-

Wilsu Franci Plegii & quicquid ad Wilsu Franci Plegii pertinet Restorias & decimas predict cum pertind in forma predicta &c. Et unde dicit qd ipsemet fuit seissit de Panerio Parco Tenement Communia Cur Let Cur Baron Wilsu Franci Plegii & quoquo ad Wilsu Franci Plegii pertinet Restorias & decimis predict cum pertinenciis in Dominico suo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Regine nunc Capiendo inde Explestias ad balenciam &c. Et in que &c. Et inde producit sectam &c. Et predict Jonas Tenens per Warancia sua defendit jus suu quando &c. Et ulterius vocat inde ad Warantzandiu Leonardu Hoppon Armigerum habeat eum hic in Crastino Purificationis Beate Marie Summonit in Comitatu predict p Auxiliu Curie &c. Idem dies datus est tam prefat Georgio & Humfrido quam prefat Jone hic &c.

In this last Entry, two things are to be observed.

First, That it begins with Alias prout patet not used before in this Collection, it being only where the Tenant appears in person at the acknowledgment of the Recovery at the Bar, and the Recovery cannot be perfected the same Term in which he appears; In which Case the Summons and the Recovery must be Entred with an Alias prout patet, and VVarrants of Attorny must be had and Entred, both for the Tenant and the Vouchee or Vouchees.

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Secondly, You are to observe, That when any Entry is made of a VVrit of Summons, or Recovery with an Alias prout pater, you must make no Paragraphs or breakings off, but continue the matter from the beginning to the end, as if it were all but one Paragraph or Sentence; and the reason is because it is but a recital of an Entry of a former Term.

Entry of the Recovery, upon the two Writs of Summons above-mentioned, and Warrants of Attorney, with two Alias prout paters, being with Treble Voucher.

Alias prout patet Termino Sancti Hillarii Anno Regni Domini Regis & Domine Regine nunc quarto Rotulo sexto continetur sic; Alias prout patet Termino Sancti Michaelis Anno Regni Domini Regis & Domine Regine nunc quarto Rotulo tricesimo continetur sic. Suffer ff. Georgius Lownds generosus in propria persona sua petit versus Humfridum Andzeus generosum Manerium de G. cum pertinentiis ac Parcum de G. cum pertinentiis Pecnon duodecim Mesuagia sex Tosta quatuor Molendina octo Columbaria decem Cardina Mille & quingentas Acras Terre ducentas & quinquaginta Acras prati tres Mille Acras pasture Centum & quinquaginta Acras Bosci Quingentas & quinquaginta Acras Parisci Communiam Pasture pro omnibus & omnimodis Averiis cum pertiñ Acetiam Cur Let Cur Baron Wilsun franci Plegii & quicquid ad Wilsun Franci Plegii pertinet cum pertinentiis in G. F. & R. Pecnon Rectorias de G. F. & R.

R. ac omnes & omnimodas decimas eisdem Recto-
 riis spectant & pertinent cum pertinentiis ut sus &
 Hereditatem suam Et in que idem Humfridus
 non habet Ingressum nisi post disseisinam quam
 Hugo Hunt inde iniuste & sine iudicio fecit
 prefat Georgio infra triginta Annos &c. Et un-
 de dicit qd ipsemet fuit seiscus de Panerio
 Parco Tenementis Communia Curia Lete
 Curia Baronis Wilsu Franci Wlegii &
 quoquo ad Wilsu Franci Wlegii pertinet
 Rectoriis & decimis predictis cum pertind in
 Dominico suo ut de feodo & iure tempore pacis
 tempore Domini Regis & Domine Regine nunc
 Capiendo inde explecias ad valenciam &c. Et
 in que &c. Et inde producit sectam &c. Et
 predict Humfridus in propria persona sua ve-
 nit & defend Jus suum quando &c. Et vocat
 inde ad warantizand Jonam Williams gene-
 rosum habeat eum hic in Octabis Sancti Mar-
 tini summonitum in Comitatu pdict per Arili-
 um Curie &c. Idem dies datus est partibus
 pdict hic &c. Et super hoc pdict Humfridus
 ponit loco suo Joheem R. & Willm T. Attoznd
 suos conjunctim & divisim & sus prefat Georgi-
 um de predict Placito &c. Et modo hic ad
 hunc diem scilicet predict Octabas Sancti Mar-
 tini venit tam predict Georgius in propria per-
 sona sua quam pdict Humfridus per J. R.
 Attoznatum suum pdict Et pdict Jonas sum-
 monitus &c. per Attoznatum suum similiter
 venit Et gratis Panerium Parcum Tenemen-
 ta Communiam Curiam Lete Curiam Baronis
 Wilsu Franci Wlegii & quicquid ad Wilsu
 Franci Wlegii ptinet Rectorias & decimas pre-
 dicta cum pertinentiis ei warantizat &c. Et su-
 per hoc predict Georgius petit versus ipsum
 Y Jonam

Jonam Tenentem per Warantiam suam Panerium Parcum Tenementa Communiam Curiam Lete Curiam Baronis Wilsam Franci Plegii & quicquid ad Wilsam Franci Plegii pertinet Rectorias & Decimas predictum cum pertinenciis in forma predicti &c. Et unde dicit quod ipsemet fuit seisset de Panerio Parco Tenementis Communia Curia Lete Curia Baronis Wilsa Franci Plegii & quoquo ad Wilsam Franci Plegii pertinet Rectorias & Decimis predictum cum pertinenciis in Dominico suo ut de feodo & iure Tempore pacis tempore Domini Regis & Domine Regine nunc capiendo inde Explestias ad valentiam &c. Et in que &c. Et inde producit sectam &c. Et predictus Jonas Tenens per Warantiam suam defendit Jus suum quando &c. Et ulterius vocat inde ad Warantizandum Leonardum Hopton Armigerum habeat eum hic in Crastino Purificationis Beate Marie summonitus in Comitatu predicti per Auxilium Curie &c. Idem dies datus est Partibus predicti hic &c. Ad quem quidem Crastinum Purificationis Beate Marie hic venditam predicti Georgius in propria persona sua quam predicti Humfridus & Jonas per Attornatos suos predicti Et predicti Leonardus modo summonitus &c. Per Willeberum Willson Attornatum suum similiter venit Et gratis Panerium Parcum Tenementa Communia Curia Lete Curia Baronis Wilsam Franci Plegii & quicquid ad Wilsam Franci Plegii pertinet Rectorias & decimas predictum cum pertinenciis ei Warantizat &c. Et super hoc predicti Georgius petit versus ipsam Leonardum Tenent per Warantiam suam Panerium Parcum Tenementa Communia Curia Lete Curia Baronis Wilsam Franci Plegii & quicquid

quicquid ad Wilsu Franci Plegii pertinet Rectorias & decimas predictas cum pertinentiis in forma predicta &c. Et unde dicit quod ipsemet fuit seisset de Manerio Parco Tenementis Communia Curia Lete Curia Baronis Wilsu Franci Plegii & quoquo ad Wilsu Franci Plegii pertinet Rectorias & decimas predictas cum pertinentiis in dominio suo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Regine nunc capiendū inde explestias ad valenciam &c. Et in que &c. Et inde producit sectam &c. Et predictus Leonardus tenens per warrantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warrantizand Johem Wheeler qui similiter presens est hic in Curia in propria persona sua Et gratis Manerium Parcum Tenement Communia Curia Lete Curia Baronis Wilsu Franci Plegii & quicquid ad Wilsu Franci Plegii pertinet Rectorias & decimas predictas cum pertinentiis et warrantizat &c. Et super hoc predictus Georgius petit verius ipsum Johannem tenentem per warrantiam suam Manerium Parcum Tenement Communia Curia Lete Curia Baronis Wilsu Franci Plegii & quicquid ad Wilsu Franci Plegii pertinet Rectorias & decimas predictas cum pertinentiis in forma predicta &c. Et unde dicit quod ipsemet fuit seisset de Manerio Parco Tenementis Communia Curia Lete Curia Baronis Wilsu Franci Plegii & quoquo ad Wilsu Franci Plegii pertinet Rectorias & decimas predictas cum pertinentiis in dominio suo ut de feodo & jure tempore pacis tempore dñi Regis & dñe Regine nunc capiendū inde Explestias ad valenciam &c. Et in que &c. Et inde producit sectam &c. Et predictus Johannes tenens per warrantiam suam

sua defendit ius suum quando &c. Et dicit
 qd predict Hugo non disseisivit prefatum Geor-
 gium de Manerio Parco Tenementis Commu-
 nia Cur Lete Cur Baronis Wilsu Franci Wlegii
 & quoquo ad Wilsu Franci Wlegii ptnet
 Rectoriis & decimis predict cum pertinenciis
 prout predict Georgius per Breve & Narratio-
 nem sua predict superius supponit Et de hoc
 ponit se super patria &c. Et predict Geor-
 gius petit Licencia inde Interloquendi Et ha-
 bet &c. Et postea idem Georgius revenit hic
 in Curia in propria persona sua Et predict Jo-
 hannes licet solempniter exactus non revenit
 set in contemptum Curie recessit Et defalta
 facit Ideo consideratum est qd predict Georgius
 recuperet seisinam suam versus prefatum Hum-
 fridum de Manerio Parco Tenementis Com-
 munia Cur Lete Cur Baronis Wilsu Franci
 Wlegii & quoquo ad Wilsu Franci Wlegii per-
 tinet Rectoriis & decimis predict cum pertinenci-
 iis Et qd idem Humfridus habeat de Terra
 predicti Jone ad valencia &c. Et qd idem Jo-
 nas ulterius habeat de Terra predicti Leonar-
 di ad valenciam &c. Et quod idem Leonar-
 dus ulterius habeat de Terra predict Johannis
 ad valenciam &c. Et idem Johannes in miseri-
 cordia &c. Et super hoc predict Georgius petit
 Breve Domini Regis & Domine Regine Vice-
 comiti Comitatus predict dirigend de habere
 faciend ei plenariam seisinam de Manerio Parco
 Tenementis Communia Cur Lete Cur Baro-
 nis Wilsu Franci Wlegii & quoquo ad Wilsu
 Franci Wlegii pertinet Rectoriis & decimis
 predict cum ptnid Et ei conceditur retrognabile
 hic a die Pasche in quindecim dies &c. Ad quem
 diem hic venit predict Georgius in propria per-
 sona

sona sua Et Vicecomes videlicet W. A. Baro-
nettus modo Pand qđ ipse virtute brevis pre-
dicti sibi directi vicesimo die Aprilis ultimo pre-
terito habere fecit prefat Georgio plenariam sei-
sinam de Manerio Parco Tenementis Com-
munia Curia Lete Curia Baronis Wilsu Fran-
ci Plegii & quoquo ad Wilsu Franci Plegii
pertinet Redozis & decimis predictis cum per-
tinenciis prout per Breve illud sibi preceptum
fuit &c.

Entry of a Recovery, with five Vou-
chers, where all the Parties appear in
Court at the time of the Acknowledg-
ment thereof.

The Precipe to be Entred upon the Prothono-
taries Remembrance.

Wigord N. Precipe Ludovico Davies ge-
neroso qđ iuste &c. reddat Samuelli Wilkes
generoso sex Mesuagia quatuor Tosta octo Gar-
dina Trescentas Acras Terre Sexaginta Acras
 prati & quadringentas Acras Pasture cum per-
tinenciis in D. W. &c. Pecnon quatuor Sa-
linas & sexdecim Bullarias Aque salse cum per-
tinenciis in eisdem Willis de D. W. &c. que
Clamat &c.

Tenens in prop^r psona vocat ad Mar-
Chyistoferum Spooner gen^d qui pre-
sens vocat Bartholomeum Jefferson
gen^d qui presens vocat Theophilum
Gregory gen^d qui presens vocat Her-
bertum Vincent Ar qui similiter pre-
sens vocat Johem Wheeler.

Ad Barram.

Y 3

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In the
Margin.

The Recovery thereupon.

Wigorn ff. Samuel Wilkes generosus in propria persona sua petit versus Ludovicum Davies generosum sex Veluagia quatuor Tosta octo Cardina Trescentas Acres Terre sexaginta Acres Prati & quadringentas Acres Pasture cum pertinentiis in D. W. &c. Pecnon quatuor Salinas & sexdecim Bullarias Aque salte cum pertinentiis in eisdem Villis de D. W. &c. ut Jus & hereditatem suam Et in que idem Ludovicus non habet Ingressum nisi post Disseisinam quam Hugo Hunt inde injuste & sine iudicio fecit prefat Samueli infra triginta Annos &c. Et unde dicit qd ipsemet fuit seifitus de Tenementis Salinis & Bullariis predictis cum pertinentiis in dominico suo ut de feodo & iure tempore pacis tempore Domini Regis & Domine Regine nunc capiendo inde Explestias ad valenciam &c. Et in que &c. Et inde producit sectam &c.

Et poict Ludovicus Tenens per Warantiam suam defendit Jus suum quando &c. Et vocat inde ad Warantzandum Christoferum Spooner generosum qui presens est hic in Curia in propria persona sua Et gratis Tenementa Salinas & Bullarias poict cum pertinentiis ei Warantizat &c. Et super hoc predictus Samuel petit versus ipsum Christoferum Tenentem per Warantiam suam Tenementa Salinas & Bullarias predicta cum pertinentiis in forma predicta &c. Et unde dicit qd ipsemet fuit seifitus de Tenementis Salinis & Bullariis predictis cum pertinentiis in dominico suo ut de feodo

feodo & iure tempore pacis tempore Domini Regis & Domine Regine nunc capiend inde Crplestias ad valenciam &c. Et in que &c. Et inde producit sextam &c.

Et predictus Christoferus Tenens per Warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Bartholomeum Jefferson generosum qui similiter presens est hic in Curia in propria persona sua Et gratis Tenementa Salinas & Bullarias predicta cum pertinentiis ei warantizat &c. Et super hoc predictus Samuel petit versus ipsum Bartholomeum Tenentem per warantiam suam Tenementa Salinas & Bullarias predicta cum pertinentiis in forma predicta &c. Et unde dicit qd ipsemet fuit seiscitus de Tenementis Salinis & Bullariis predictis cum pertinentiis in Dominico suo ut de feodo & iure tempore pacis tempore Domini Regis & Domine Regine nunc capiendo inde Crplestias ad valenciam &c. Et in que &c. Et inde producit sextam &c.

Et predictus Bartholomeus Tenens per warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Theophilum Gregory generosum qui similiter presens est hic in Curia in propria persona sua Et gratis Tenementa Salinas & Bullarias predicta cum pertinentiis ei warantizat &c. Et super hoc predictus Samuel petit versus ipsum Theophilum tenentem per warantiam suam Tenementa Salinas & Bullarias predicta cum pertinentiis in forma predicta &c. Et unde dicit qd

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ipſemet fuit ſeiſſitus de Tenementis Salinis & Bullariis predictis cum pertinē in dominico ſuo ut de feodo & jure tempore pacis tempore domini Regis & domine Regine nunc capiendū inde Expleſſas ad valenciā ꝛc. Et in que ꝛc. Et inde producit ſectam ꝛc.

Et predictus Theophilus Tenens per warantiam ſuam defendit juſ ſuum quando ꝛc. Et ulterius vocat inde ad warantizandum Herbertum Vincent Armigerum qui ſimiliter preſens eſt hic in Curia in propria perſona ſua Et gratis Tenementa Salinas & Bullarias predictas cum pertinenciis ei warantizat ꝛc. Et ſuper hoc predictus Samuel petit verſus ipſum Herbertum tenentem per warantiam ſuam Tenementa Salinas & Bullarias predictas cum pertinenciis in forma predicta ꝛc. Et unde dicit quod ipſemet fuit ſeiſſitus de Tenementis Salinis & Bullariis predictis cum pertinē in dominico ſuo ut de feodo & jure tempore pacis tempore domini Regis & domine Regine nunc capiendū inde expleſſas ad valenciā ꝛc. Et in que. Et inde producit ſectam ꝛc.

Et predictus Herbertus tenens per warantiam ſuam defendit juſ ſuum quando ꝛc. Et ulterius vocat inde ad Warantizandum Johem Wheeler qui ſimiliter preſens eſt hic in Curia in propria perſona ſua Et gratis Tenementa Salinas & Bullarias predictas cum pertinenciis ei warantizat ꝛc. Et ſuper hoc predictus Samuel petit verſus ipſum Johannem tenentem per warantiam ſuam Tenementa Salinas & Bullarias predictas cum pertinenciis in forma predicta ꝛc. Et

Et unde dicit qđ ipsemet fuit seiscitus de Tenementis Salinis & Bullariis predict cum pertinentiis in dominico suo ut de feodo & jure tempore pacis tempore domini Regis & domine Regine nunc capiend inde explecias ad valenciam &c. Et in que &c. Et inde producit sectam &c.

Et predict Johannes tenens per warantiam suam defendit sus suum quando &c. Et dicit qđ predict Hugo non disseisivit prefat Samuellem de Tenementis Salinis & Bullariis predict cum pertinentiis prout predict Samuel per breve & narrationem sua pđict superius superponit Et de hoc ponit se super Patriam, &c.

Et predict Samuel petit Licenciam inde Interloquendi Et habet &c. Et postea idem Samuel revenit hic in Curia isto eodem Termino in propria persona sua Et predict Johannes licet solempniter exactus non revenit set in contemptum Cur recessit & defaultam fecit Ideo consideratum est qđ predict Samuel recuperet seiscinam suam versus prefatum Ludovicum de Tenementis Salinis & Bullariis predict cum pertinentiis Et quod idem Ludovicus habeat de Terra pđict Chyristoferi ad valenciam &c. Et qđ idem Chyristopherus ulterius habeat de Terra pđict Bartholomei ad valenciam &c. Et qđ idem Bartholomeus ulterius habeat de Terra pđict Theophili ad valenciam &c. Et qđ idem Theophilus ulterius habeat de Terra predict Herberti ad valenciam &c. Et qđ idem Herbertus ulterius habeat de Terra predict Johannis ad valenciam &c. Et idem Johannes in misericordia &c. Et super hoc predict Samuel

mucl petit Breve domini Regis & domine Regine Vicecomiti Comitatus predicti dirigens de habere faciens ei plenariam seisinam de Tenementis Salinis & Bullariis predictis cum pertinentiis Et ei conceditur returnabile hic indistincte &c. Postea scilicet vicesimo octava die Novembris isto eodem Termino venit hic in Curia predicta Samuel in propria persona sua Et Vicecomes videlicet J. W. Armiger modo mand quod ipse virtute Brevis predicti sibi directi vicesimo quarto die Novembris ultimo preterito habere fecit prefat Samueli plenariam seisinam de Tenementis Salinis & Bullariis predictis cum pertinentiis prout per Breve illud sibi preceptum fuit &c.

Entry of a Recovery by Alias prout patet, with Treble Voucher, where the Vouchees appear upon Summons, with an Adjournment of the Term.

Alias prout patet Termino Sancte Trinitatis Anno Regni Domini Regis nunc decimo septimo Rotulo tricesimo secundo continetur sic Alias prout patet Termino Pasche Anno Regni Domini Regis nunc decimo septimo Rotulo quadragesimo continetur sic Pottingh ff. Rogerus Haslewood generosus in propria persona sua petit versus Thomam Jenkinson generosum unum Mesuagium sexaginta Acres Terre decem Acres prati quadraginta Acres pasture & communiam pasture pro omnibus Averiiis cum pertinentiis in G. ut jus & Hereditatem suam Et in que idem Thomas non habet Ingressum nisi post disseisinam quam Hugo Hunt inde injuste & sine judicio fecit prefat Rogero infra

fra triginta annos &c. Et predictus Thomas in propria persona sua venit & defendit ius suum quando &c. Et vocat inde ad warantizandum Honozium Marston generosum habeat eum hic in Crastino Ascensionis Domini summonitum in Comitatu predict per Auxilium Curie &c. Idem dies datus est partibus predict hic &c. Et super hoc predict Thomas ponit loco suo A. B. & C. D. Attoznatos suos conjunctim & divisim versus prefatum Rogerum de predict placito &c. Et modo hic ad hunc diem scilicet predict Crastinum Ascensionis Domini venit tam predictus Rogerus in propria persona sua quam predictus Thomas per A. B. Attoznatum suum predictum Et predictus Honozius summonitus &c. Per Attoznatum suum similiter venit & gratis Tenementa & Communiam predicta cum pertinentiis ei warantizat &c. Et super hoc predict Rogerus petit versus ipsum Honozium tenentem per warantiam suam Tenementa & Communiam predict cum pertinentiis in forma predicta &c. Et unde dicit qd ipsemet fuit seiscitus de Tenementis & Communia predict cum pertinentiis in dominico suo ut de feodo & iure tempore pacis tempore Domini Regis nunc capiendo inde Expleas ad valenciam &c. Et in que &c. Et inde producit sextam &c. Et predictus Honozius tenens per warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Gabrielem Lynch generosum habeat eum hic a die Sancti Michaelis in tres septimanas & summonitum in Comitatu predict per Auxilium Curie &c. Ad quem diem loquela predict Adjoznata fuit per Breve domini Regis de Comuni Adjoznamento a Westmonasteriense

nasteriense in Comitatu Middlesexie usque ad Civitatem Drogh usque in Crastino Sancti Martini tunc proximo sequente Ad quem diem Loquelia predicta ulterius Adjornata fuit per aliud Breve dicti domini Regis nunc de Comuni Adjornamento ab Drogh predicta usque ad Westmonasteriensem predictam in Comitatu Middlesexie predicta usque ad hunc diem scilicet in Octabis Sancti Hillarii tunc proximo sequente Et modo hic scilicet apud Westmonasterium predictum ad hunc diem scilicet predictas Octabas Sancti Hillarii venit tam predictus Rogerus in propria persona sua quam predictus Thomas per Attornatum suum predictum Et predictus Gabriel Summonitus &c. per E. F. Attornatum suum similiter venit Et gratis Tenementa & Communiam predictam cum pertinentiis ei warantizat &c. Et super hoc predictus Rogerus petit versus ipsum Honorium tenentem per warantiam suam Tenementa & Communiam predictam cum pertinentiis in forma predicta &c. Et unde dicit quod ipsemet fuit seisset de Tenementis & Communia predicta cum pertinentiis in dominio suo ut de feodo & jure tempore pacis tempore domini Regis nunc capiendo inde Expensas ad valentiam &c. Et in que &c. Et inde producit sectam &c.

Et predictus Gabriel Tenens per warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Johannem Wheeler qui similiter presens est hic in Curia in propria persona sua Et gratis Tenementa & Communiam predictam cum pertinentiis ei warantizat &c. Et super hoc predictus Rogerus petit versus ipsum Johannem tenentem per warantiam suam

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Tenementa & Communia p̄dict cum pertinenciis in forma p̄dict &c. Et unde dicit qđ ipse met fuit seiscitus de Tenementis & Communia p̄dict cum pertinenciis in dominico suo ut de feodo & iure tempore pacis tempore domini Regis nunc capiendo inde Explestias ad valenciam &c. Et in que &c. Et inde pducit sextam &c. Et p̄d Jōhes tenens per warantiam suā defendit ius suū quando &c. Et dicit qđ p̄d Hugo non disseisibit p̄fat Rogerum de Tenementis & Communia p̄dict cum p̄iū p̄ut idem Rogerus p̄ Breve & Narrationem sua p̄dict superius supponit Et de hoc ponit se super Patriam &c. Et p̄dictus Rogerus petit Licenciam inde Interloquendi Et habet &c. Et postea idem Rogerus revenit hic in Curia isto eodem Terminō in propria persona sua Et p̄dictus Jōhes licet solempniter exactus non revenit set in contemptum Curie recessit & defaltam facit Ideo consideratum est qđ p̄dict Rogerus recuperet seisinam suam versus p̄fatum Thomam de Tenementis & Communia p̄dict cum p̄iū Et qđ idem Thomas ulterius habeat de Terra p̄dict Honorii ad valenciam &c. Et qđ idem Honorius ulterius habeat de Terra p̄dict Gabrielis ad valenciam &c. Et qđ idem Gabriel ulterius habeat de Terra p̄dicti Jōhis ad valenciam &c. Et idem Jōhes in misericordia &c. Et super hoc p̄dict Rogerus petit breve Domini Regis Vicecomiti Comitatus p̄dict dirigend de habere faciend ei plenariam seisinam de Tenementis & Communia p̄dict cum p̄iū Et ei conceditur recognabile hic a die Sancti Martini in quindecim dies &c. Ad quem diem hic venit p̄dictus Rogerus in propria p̄sona sua Et Vicecomes videlicet R. C. Miles modo mand qđ ipse

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Of the Practice of the

se virtute brevis Poict sibi directi vicesimo quarto die Novembꝛis ultimo preterito habere fecit prefato Rogero plenariam seisinam de Tene-
mentis & Communia Poict cum pꝛiñ put per
breve illud sibi preceptum fuit &c.

Entry of a Recovery, six Vouchers, where
all the Parties appear in person at the
Bar, at the time of the Acknowledgment
thereof.

Lincoln. Jonathan Scribblehil generosus
in pꝛpꝛia pꝛsona sua petit versus Salachielem
Carney generosum Paneria de G. L. & A.
cum pꝛinenciis Ac scitum Panerii de D. cum
pꝛiñ Pecnon viginti Mesuagia duodecim Tosta
quatuor Molendina viginti Columbaria triginta
Cardina duas Mille Acras Terre trescentas
Acras Pꝛati Mille & quingentas Acras Pa-
sture centum & quinquaginta Acras Bosci
Ducentas Acras Moze Duas Mille Acras Paris-
ci Centum & quinquaginta Acras Terre Aqua
cooperte decem Libꝛat tresdecim Solidat & qua-
tuor denar Reddit Communiam Pasture pꝛo
omnibus & omnimodis Averis communiam
Turbarie communiam Estoveriorum Pasturam
ad centum Bobes & quadꝛingentas & quin-
quaginta Oves Liberam Piscariam in Aqua de
L. Liberam Marennam Pundinum & Percat
Milum Franci Plegii Bona & Catalla Felon
& Fugitivoꝝum cum pꝛiñ in G. L. A. C. F. R.
&c. Acciam Rectozias de G. L. C. & R. ac
Prebendam Ecclesie de L. cum pꝛiñ Pecnon
Advocationes Vicariarum Ecclesiarum de A.
& F. ut sus & Hereditatem suam Et in que
idem Salachiel non habet ingressum nisi post
disseisinam

dilectissimam quam Hugo Hunt inde iniuste & sine iudicio fecit p̄fat Jonathan infra triginta annos &c. Et unde dicit qđ ipsemet fuit seisset de Maneriis Scitu Tenementis Redditi Communis Pastura Libera Piscaria Runding Percato Wilsu Franci Plegii Bonis & Catallis Felonum & Fugitivorum Rectoriis & Prebendis p̄dict cum p̄tin in dominico suo ut de feodo & iure ac de Advocationibus p̄dict ut de feodo & iure tempore pacis tempore dñi Regis & dñe Regine nunc capiendo inde Explestias ad valenciam &c. Et in que &c. Et inde producit sectam &c.

Et p̄dict Salathiel in p̄pria p̄sona sua venit & defendit sus suum quando &c. Et vocat inde ad warantizandum Ariam Turbervil gen qui plens est hic in Curia in p̄pria p̄sona sua Et gratis Maneria Scitum Tenementa Redditi Communis Pasturam Liberam Piscariam Runding Percatum Wilsu Franci Plegii Bona & Catalla Felonum & Fugitivorum Rectorias & Prebendam p̄dicta cum pertinenciis ac Advocationes p̄dict ei warantizat &c. Et super hoc p̄dict Jonathan petit versus ipsum Ariam Tenentem per waranciam suam Maneria Scitum Tenementa Redditi Communis Pasturam Liberam Piscariam Runding Percatum Wilsu Franci Plegii Bona & Catalla Felonum & Fugitivorum Rectorias & prebendam p̄dicta cum p̄tin ac Advocationes p̄dict in forma p̄dict &c. Et unde dicit qđ ipsemet fuit seisset de Maneriis Scitu Tenementis Redditi Communis Pastura Libera Piscaria Runding Percato Wilsu Franci Plegii Bonis & Catallis Felonum & Fugitivorum

vozum Rectoriis & Prebenda p̄dict cum p̄tin in dominico suo ut de feodo & iure ac de Advocationibus p̄dict ut de feodo & iure tempore pacis tempore dñi Regis & dñe Regine nunc Capiendo inde Expensas ad valenciam &c. Et in que &c. Et inde producit sectam, &c.

Et p̄dictus Arias tenens per Warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Andream Micham generosum qui similiter p̄sens est hic in Curia in propria p̄sona sua Et gratis Maneria Scitum Tenementa Reditum Communias Pasturam Liberam Piscariam Rundiñ Mercatum Viscum Franci Plegii Bona & Catalla Felonum & Fugitivorum Rectorias & Prebendam p̄dicta cum p̄tin ac Advocationes p̄dict ei warantizat &c. Et super hoc p̄dict Jonathan petit versus ipsum Ariam Tenentem per warantiam suam Maneria Scitum Tenementa Reditum Communias Pasturam Liberam Piscariam Rundiñ Mercatum Viscum Franci Plegii Bonis & Catallis Felonum & Fugitivorum Rectoriis & Prebendam p̄dict cum p̄tin ac Advocationes p̄dict in forma p̄dict &c. Et unde dicit qđ ipsemet fuit seissit de Maneriis Scitu Tenementis Reditu Communis Pastura Libera Piscaria Rundiñ Mercato Viscu Franci Plegii Bonis & Catallis Felonum & Fugitivorum Rectoriis & Prebenda p̄dict cum p̄tin in dominico suo ut de feodo & iure ac de Advocationibus p̄dict ut de feodo & iure tempore pacis tempore domini Regis & domine Regine nunc capiendo inde Expensas ad valenciam &c. Et in que &c. Et inde pducit sectam &c.

Et

Et p̄dict̄ Urias tenens per Warantiam suā defendit ius suum quando ꝛc. Et ulterius vocat inde ad warantizandum Andream Pitcham generosum qui similiter plens est hic in Curia in propria p̄sona sua Et gratis Paneria Scitum Tenementa Redditum Communias Pasturam Liberam Piscaria Pundin Mercat̄ Alsum Franci Plegii Bona & Catalla Felon & Fugitivorum Rectozias & Prebendam p̄dict̄ cum p̄ciñ ac Advocaciones p̄dict̄ ei warantizat ꝛc. Et super hoc idem Jonathan petit versus ipsum Andream tenentem p̄ warantiam suam Paneria Scitum Tenementa Redditum Communias Pasturam Liberam Piscariam Pundinum Mercatum Alsum Franci Plegii Bona & Catalla Felonum & Fugitivorum Rectozias & Prebendam predicta cum pertinenciis ac Advocaciones p̄dict̄ in forma p̄dict̄ ꝛc. Et unde dicit qđ ipsemet fuit seiscitus de Paneriis Scitu Tenementis Redditu Communis Pastura Libera Piscaria Pundino Mercato Alsu Franci Plegii Bonis & Catalis Felonum & Fugitivorum Rectozis & Prebenda p̄dict̄ cum p̄ciñ in dominico suo ut de feodo & jure ac de Advocacionibus p̄dict̄ ut de feodo & jure tempore pacis tempore dñi Regis & dñe Regine nunc capiendo inde expleas ad valenciam ꝛc. Et in que ꝛc. Et inde producit sectam ꝛc.

Et p̄dict̄ Andreas Tenens p̄ Warantiam suā defendit ius suum quando ꝛc. Et ulterius vocat inde ad warantizandum Conradum Arpingen qui similiter plens est hic in Curia in propria p̄sona sua & gratis Paneria Scitum Tenementa Redditum Communias Pasturam

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Liberam Piscariam Rundiū Mercat Wilem Franc Pleg Wona & Catalla Felon & Fugitivor Rectorias & Prebendam p̄dict cum p̄rid ac Advocationes p̄dict ei warantizat &c. Et super hoc p̄dict Jonathan petit versus ipsum Conradum tenentem per warantiam suam Maneria Scitum Tenementa Redditum Communias Pasturam Liberam Piscariam Rundiū Mercatum Wilem Franc Pleg Wona & Catalla Felon & Fugitivorum Rectorias & Prebendam p̄dict cum p̄rid ac Advocationes p̄dict in forma p̄dict &c. Et unde dicit qđ ipsemet fuit sciscitus de Maneriis Scitu Tenementis Redditu Comuniis Pastura Libera Piscaria Rundiū Mercato Wilem Franc Pleg Wona & Catalla Felon & Fugitivor Rector & Prebend p̄dict cum p̄rid in dominico suo ut de feodo & jure ac de Advocationibus p̄dict ut de feodo & jure tempore pacis tempore dñi Regis & dñe Regine nunc capiendo inde Explestias ad valenciam &c. Et in que &c. Et inde producit sectam &c.

Et p̄dict Conradus tenens per warantiam suam defendit sus suum quando &c. Et ulterius vocat inde ad warantizandum Silvestrem Parsons generosum qui similiter presens est hic in Curia in propria persona sua Et gratis Maneria Scitum Tenementa Redditum Communias Pasturam Liberam Piscariam Rundiū Mercatum Wilem Franc Pleg Wona & Catalla Felon & Fugitivor Rector & Prebendam p̄dict cum p̄rid ac Advocationes p̄dict ei warantizat &c. Et super hoc p̄dict Jonathan petit versus ipsum Silvestrem tenentem per warantiam suam Maneria Scitum Tenementa Redditum Communias Pasturam Liberam Piscariam

riant Pundinum Mercatum Wilem Franci Plegii Wona & Catalla Felon & Fugitivor Rectorias & Prebendam pdict cum pnd ac Advocaciones pdict &c. Et unde dicit qd ipse met fuit seistus de Paneris Scitu Tenementis Redditu Communis Pastura Libera Piscaria Pundino Mercato Wilem Franci Plegii Wonis & Catallis Felonum & Fugitivorum Rectoris & Prebenda pdict cum pnd in domino suo ut de feodo & jure ac de Advocacionibus pdict ut de feodo & jure tempore patris tempore domini Regis & domine Regine nunc capiendo inde Explecias ad valenciam &c. Et in que &c. Et inde producit sextam &c.

Et pdict Silvester tenens p warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Abrahamum Cozing generosum qui similiter presens est hic in Curia pppia psona sua Et gratis Paneria Scitu Tenementa Redditi Communis Pastur Liber Piscar Pundino Mercato Wilem Franci Plegii Wona & Catalla Felon & Fugitivor Rector & Prebenda pdict cum pnd ac Advocaciones pdict ei warantizat &c. Et super hoc pdict Jonathan petit versus ipsum Abraham Tenent p warantiam suam Paneria Scitu Tenementa Redditi Communis Pastur Liber Piscar Pundino Mercato Wilem Franci Plegii Wona & Catalla Felon & Fugitivor Rectorias & Prebenda pdict cum pnd ac Advocaciones pdict in forma pdict &c. Et unde dicit qd ipse met fuit seistus de Paner Scitu Tenementis Redditu Communis Pastura Libera Piscaria Pundino Mercato Wilem Franci Plegii Wonis & Catallis Felon & Fugitivor Rector & Prebenda pdict cum pnd

in dominico suo ut de feodo & iure ac de Advocationibus p̄dict ut de feodo & iure tempore pacis tempore dñi Regis & dñe Regine nunc capiēdo inde Explestias ad valenciā &c. Et in que &c. Et inde producit sextam &c.

Et p̄dict Abrahamus tenens per warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Johē Wheeler qui similiter p̄sens est hic in Curia in propria p̄sona sua Et gratis Maneria Scitum Tenementa Reddita Communias Pasturam Liberam Piscariam Pundinum Mercatum visum Franc Pleg Bona & Catalla Felon & Fugitivor Rectorias & Prebendam p̄dict cum p̄tin ei warantizat &c. Et super hoc p̄dict Jonathan petit versus ipsum Johē tenentem per warantiam suam Maneria Scitum Tenementa Reddita Communias Pasturam Liberam Piscariam Pundinum Mercatum visum Franc Pleg Bona & Catalla Felon & Fugitivor Rectorias & Prebendam p̄dict cum p̄tin ac Advocaciones p̄dict in forma p̄dict &c. Et unde dicit qđ ipsemet fuit seistus de Maneria Scitu Tenementis Redditi Commun Pastur Libera Piscaria Pundin Mercato Visu Franc Pleg Bonis & Catallis Felon & Fugitivor Rector & Prebenda p̄dict cum p̄tin in dominico suo ut de feodo & iure ac de Advocationibus p̄dict ut de feodo & iure tempore pacis tempore dñi Regis & dñe Regine nunc capiēdo inde Explestias ad valenciā &c. Et in que &c. Et inde producit sextam &c.

Et

Et p̄dict J̄ohes tenens per warantiam suam defendit ius suum quando ꝛc. Et dicit qđ p̄dict Hugo non disseisibit p̄fatum Jonathan de Paneris Scitu Tenementis Redditu Commun Pastura Libera Piscaria Rundino Mercato Villu Franc Pleg Bonis & Catallis Felonum & Fugitivorum Redozis & Prebenda p̄dict cum p̄m ac Advocationibus p̄dict prout idem Jonathan per Breve & Narration sua p̄dict superius supponit Et de hoc ponit se super Patriam ꝛc.

Et p̄dict Jonathan petit Licenciam inde Interloquendi Et habet ꝛc. Et postea idem Jonathan revenit hic in Curia isto eodem Termino in p̄pria p̄sona sua Et p̄dict J̄ohes licet solempniter exactus non revenit set in contemptum Curie recessit & defaultam facit Ideo consideratum est qđ p̄dict Jonathan recuperet sessionam suam versus p̄fatum Salathielem de Paner Scitu Tenementis Reddita Commun Pastura Libera Piscaria Rundino Mercato Villu Franc Pleg Bonis & Catallis Felon & Fugitivor Rector & Prebenda p̄dict cum p̄m ac Advocationibus p̄dict Et qđ idem Salathiel habeat de Terra p̄dict Arrie ad valenciam ꝛc. Et qđ idem Arias ulterius habeat de Terra p̄dict Andree ad valenciam ꝛc. Et qđ idem Andreas ulterius habeat de Terra p̄dict Conrad ad valenciam ꝛc. Et qđ idem Conradus ulterius habeat de Terra p̄dict Silvestris ad valenciam ꝛc. Et qđ idem Silvester ulterius habeat de Terra p̄dict Abrahami ad valenciam ꝛc. Et qđ idem Abrahamus ulterius habeat de Terra p̄dict J̄ohis ad valenciam ꝛc. Et idem J̄ohes in misericordia ꝛc. Et super hoc

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p̄dict

p̄dict Jonathan petit Breve domini Regis &
 domine Regine Vicecomiti Comitatus p̄dict
 dirigendū de habere faciendū ei plenariam seisi-
 nam de Maneriis Scitu Tenementis Redditi
 Communiis Pastura Libera Piscaria Pundino
 Mercato Villu Franci Plegii Bonis & Catal-
 lis Felonum & Fugitivorum Rectoris & Pre-
 benda p̄dict cum p̄iud ac Advocacionibus p̄dict
 Et ei conceditur retornabile hic indilate &c.
 Postea scilicet duodecimo die Februarii isto eod
 Termino venit hic in Curia p̄dict Jonathan in
 propria p̄sona sua Et Vicecomes videlicet W. M.
 Miles modo mandū qđ ipse virtute brevis p̄dict
 sibi directi nono die Februarii ultimo preterito
 habere fecit p̄fato Jonathan plenariam seisi-
 nam de Maneriis Scitu Tenementis Redditi Com-
 muniis Pastura Libera Piscaria Pundino
 Mercato Villu Franci Plegii Bonis & Catal-
 lis Felon & Fugitivor Rector & Prebenda p̄dict
 cum p̄iud ac Advocacionibus p̄dict prout per
 Breve illud sibi preceptum fuit &c.

Entry of a Recovery with single Voucher,
 of the Moiety of several Parcels.

Mart' II. Precipe Rectori Stanton generoso
 qđ iuste &c. reddat Olibaro Birmingham gene-
 roso Medietatem quatuor Meluagiorum duorum
 Testorum unius Molendini granatici ventriti-
 ei trium Columbariorum quatuor Gardinorum
 sexcentarum acrarum Terre Treseptarum &
 quinquaginta acrarum prati Mille & quingen-
 tarum acrarum pasture & Centum & sexagins-
 ta acrarum Bosci cum p̄iud in R. B. & T.
 quam p̄sonat &c.

Te

Tenens in ppria psona vo-
cat ad Warantizandum
Johem Wheeler.

Warr. R. Oliverus Birmingham generosus
in ppria psona sua petit versus Hectorem Stan-
ton generosum Medietatem quatuor Desuagiorum
duorum Tostorum unius Molendini gra-
natici ventriticum trium Columbariorum quatuor
Gardinozum sexcentarum accrarum Terre
Trescentarum & quinquaginta accrarum Prati
Mille & quingentarum accrarum Pasture &
Centum & sexaginta accrarum Bosci cum pñd
in R. L. & T. ut sus & Hereditatem suam Et
in quam idem Hector non habet ingressum
nisi post disseissinam quam Hugo Hunc inde
injuste & sine Iudicio fecit p̄fato Olivero
infra triginta annos &c. Et unde dicit qđ ip-
semet fuit seissus de Medietate p̄dict cum per-
tñd in dominico suo ut de feodo & iure tem-
poze pacis tempore domini Regis nunc ca-
piendo inde Explestas ad valenciam &c. Et in
quam &c. Et inde producit sectam &c.

Et p̄dict Hector in propria persona sua ve-
nit & defendit sus suum quando &c. Et vocat
inde ad warantizandum Johem Wheeler qui
p̄sens est hic in Curia in propria psona sua
Et gratis medietatem p̄dictam cum pñd ei
warantizat &c. Et super hoc p̄dict Oliverus
petit versus ipsum Johem tenentem per war-
rantiam suam medietatem p̄dictam cum per-
tñd forma p̄dict &c. Et unde dicit qđ ipse-
met fuit seissus de medietate p̄dict cum pñd

in dominico suo ut de feodo & jure tempore pacis tempore dñi Regis & dñe Regine nunc capiendo inde Explestias ad valenciam &c. Et in quam &c. Et inde producit sextam &c.

Et pñict Jöhēs tenens per warantiam suam defendit jus suum quando &c. Et dicit qđ pñ Hugo non disseisibit pñefatum Mlibarum de medietate pñict cum pñid pñout pñict Mlibarus per bzeve & narrationem sua pñict superius supponit Et de hoc ponit se super patriam &c.

Et pñict Mlibarus petit Licentiam inde Interloquendi Et habet &c. Et postea idem Mlibarus revenit hic in Curia isto eodem Terminō in pñia pñona sua Et pñict Jöhēs licet sollemniter exactus non revenit set in contemptum Curie recessit & defaultam facit Ideo Consideratum est qđ pñict Mlibarus recuperet seissnam suam versus pñfatum Hecozem de medietate pñict cum pñid Et qđ idem Hecoz habeat de Terra pñict Jöhīs ad valenciam &c. Et idem Jöhēs in misericordia &c. Et super hoc idem Mlibarus petit bzeve dñi Regis & dñe Regine nunc Vicecomiti Comitatus pñict dñis genō de habere faciendū ei plenariam seissnam de medietate pñict cum pñid Et ei conceditur recognabile hic a die Sancti Michaelis in unū Mensē &c. Ad quem diē hic venit pñict Mlibarus in pñia pñona sua Et Vicecomes videlicet R. W. Miles modo mand qđ ipse virtute brevis pñedicti sibi directi vicesimo quinto die Novembris ultimo pñeterit habere fecit pñfato Mlibaro plenariam seissnam de medietate pñict cum pñid pñout per bzeve illud sibi pñceptum fuit &c.

Entry

Entry of a Recovery with double Voucher
of three parts in six of certain Parcels.

Mid. ff. Albertus Goodwin gen in ppria
plona sua petit versus Gervasium Alwin gene-
rosolum tres partes unius Mesuagii viginti acra-
rum pparati & passagii ultra Aquam Thamisi in
sex partes dividend cum pertinentiis in G. ut
jus & Hereditatem suam & in quas idem Gerva-
sius non habet Ingressum nisi post disseisinam
quam Hugo Hunt inde iniuste & sine iudicio
fecit prefato Alberto infra triginta Annos &c.
Et unde dicit qd ipsemet fuit seissitus de tribus
partibus pdict cum pti in dominico suo ut de
feodo & iure tempore pacis tempore dñi Regis
& dñe Regine nunc capiend inde Crplessas ad
valenciam &c. Et in quas &c. Et inde pducit
sectam &c.

Et pdict Gervasius in ppria plona sua venit
& defendit ius suum quando &c. Et vocat inde
ad warrantizandum Alanum Trombal generos-
sum qui plens est hic in Curia in ppria plon
sua Et gratis tres partes pdict cum pti ei
warrantizat &c. Et super hoc pdict Albertus pe-
tit versus ipsum Allanum tenentem p waran-
tiam suam tres partes pdict cum pti in forma
pdict &c. Et unde dicit qd ipsemet fuit seissit
de tribus partibus pdict cum pti in dominico
suo ut de feodo & iure tempore pacis tempore
dñi Regis & dñe Regine nunc capiend inde
Crplessas ad valenciam &c. Et in quas &c. Et
inde pducit sectam &c.

Et

in dominico suo ut de feodo & jure tempore pacis tempore dñi Regis & dñe Regine nunc capiendo inde Explestias ad valenciam &c. Et inquam &c. Et inde producit sextam &c.

Et p̄dict Jōhes tenens per waranciam suam defendit jus suum quando &c. Et dicit qđ p̄d Hugo non disseisibit p̄fatum Olibarum de medietate p̄dict cum p̄t̄nd prout p̄dict Olibarus per breve & narrationem sua p̄dict superius superponit Et de hoc ponit se super patriam &c.

Et p̄dict Olibarus petit Licentiam inde Interloquendi Et habet &c. Et postea idem Olibarus revenit hic in Curia isto eodem Terminō in p̄pria p̄sona sua Et p̄dict Jōhes licet solemniter exactus non revenit sed in contemptum Curie recessit & defaultam facit Ideo Consideratum est qđ p̄dict Olibarus recuperet seissinam suam versus p̄fatum Hectorem de medietate p̄dict cum p̄t̄nd Et qđ idem Hec̄tor habeat de Terra p̄dict Jōhis ad valenciam &c. Et idem Jōhes in misericordia &c. Et super hoc idem Olibarus petit breve dñi Regis & dñe Regine nunc Vicecomiti Comitatus p̄dict dirisgendō de habere faciendō ei plenariam seissinam de medietate p̄dict cum p̄t̄nd Et ei conceditur recognabile hic a die Sancti Michaelis in unū Mensē &c. Ad quem diē hic venit p̄dict Olibarus in p̄pria p̄sona sua Et Vicecomes videlicet R. W. Miles modo mand qđ ipse virtute brevis p̄dicti sibi directi vicesimo quinto die Novembris ultimo preterit habere fecit p̄fato Olibaro plenariam seissinam de medietate p̄dict cum p̄t̄nd prout per breve illud sibi p̄ceptum fuit &c.

Entry

Entry of a Recovery with double Voucher
of three parts in six of certain Parcels.

Widd. ff. Albertus Goodwin gen^d in p^{pr}ia p^{so}na sua petit versus Gervasium Alwin generosum tres partes unius Mesuagii viginti acrarum p^{pr}ati & passagii ultra Aquam Thami^s in sex partes dividend^o cum pertinenciis in C. ut jus & Hereditatem suam & in quas idem Gervasius non habet Ingressum nisi post disseisinam quam Hugo Hunt inde injuste & sine iudicio fecit p^{re}fato Alberto infra triginta Annos &c. Et unde dicit q^d ipsemet fuit seiscitus de tribus partibus p^{re}dict^{is} cum p^{re}sent^{is} in dominico suo ut de feodo & iure tempore pacis tempore dⁿⁱ Regis & d^{ne} Regine nunc capiend^o inde Explestias ad valenciam &c. Et in quas &c. Et inde p^{ro}ducit sectam &c.

Et p^{re}dict^{is} Gervasius in p^{pr}ia p^{so}na sua venit & defendit ius suum quando &c. Et vocat inde ad warantizandum Alanum Trombal generosum qui p^{re}sens est hic in Curia in p^{pr}ia p^{so}na sua Et gratis tres partes p^{re}dict^{is} cum p^{re}sent^{is} ei warantizat &c. Et super hoc p^{re}dict^{is} Albertus petit versus ipsum Allanum tenentem p^{ro} warantiam suam tres partes p^{re}dict^{is} cum p^{re}sent^{is} in forma p^{re}dict^{is} &c. Et unde dicit q^d ipsemet fuit seiscit^{us} de tribus partibus p^{re}dict^{is} cum p^{re}sent^{is} in dominico suo ut de feodo & iure tempore pacis tempore dⁿⁱ Regis & d^{ne} Regine nunc capiend^o inde Explestias ad valenciam &c. Et in quas &c. Et inde p^{ro}ducit sectam &c.

Et

Et p̄dict Allanus tenens per warantiam suam defendit ius suum quando &c. Et ulterius vocat inde ad warantizandum Iohem Wheel-
er qui similiter p̄sens est hic in Cur in p̄pria p̄sona sua Et gratis Tres Partes p̄dictas cum p̄t̄id ei warantizat &c. Et super hoc p̄dict Albertus petit versus ipsum Iohem tenentem per warantiam suam Tres Partes p̄dict cum p̄t̄id in forma p̄dict &c. Et unde dicit q̄d ipsemet fuit seiscitus de tribus partibus p̄dict cum p̄t̄id in dominico suo ut de feodo & jure tempore pacis tempore dñi Regis & dñe Regine nunc capiend̄ inde Explestias ad valenciam &c. Et in quas &c. Et inde producit sectam &c.

Et p̄dict Iohes tenens per warantiam suam defendit ius suum quando &c. Et dicit q̄d p̄dictus Hugo non disseisibit p̄fat Albertum de Tribus partibus p̄dict cum p̄t̄id p̄not p̄dict Albertus per Breve & Narrationem sua p̄dict superius supponit Et de hoc ponit se super Patriam &c.

Et p̄dict Albertus petit Licenciam inde Interloquendi Et habet &c. Et postea idem Albertus revenit hic in Curia isto eodem Termino in propria persona sua Et p̄dict Iohes licet solempniter exactus non revenit set in contemptum Curie recessit & defalcam facit Ideo consideratum est q̄d p̄dict Albertus recuperet seiscinam suam versus p̄fatum Ger-
vasium de tribus partibus p̄dict cum p̄t̄id Et q̄d idem Gervasius habeat de terra p̄dicti Allani ad valenciam &c. Et q̄d idem Allanus habeat de Terra p̄dict Johannis ad valenciam &c. Et idem Iohes in Misericordia &c. Et super hoc

hoc p̄dict Albertus petit breve dñi Regis & dñe Regine Vicecomiti Comitatus p̄dict dirigend de habere faciend ei plenariam seisinam de Tribus Partibus p̄dict cum p̄tenciis Et ei conceditur retornabile hic a die Sancti Martini in quindecim dies &c. Ad quem diem hic venit p̄dict Albertus in p̄pria p̄sona sua Et Vicecomes videlicet J. L. Miles modo mand qđ ipse virtute Brevis p̄dict sibi directi Vicecomiti sexto die Novembris ultimo p̄terito habere fecit p̄fato Alberto plenariam seisinam de Tribus Partibus p̄dict cum p̄t̄id p̄out per Breve illud sibi p̄ceptum fuit &c.

Entry of a Recovery with treble Voucher,
of the third part of several particulars.

Surr. II. Lionellus Thompson generosus in p̄pria p̄sona sua petit versus Gertrudum Simpson generosum tertiam partem decem Mesuagiorum & viginti acrarum pasture cum p̄t̄id in novem partes dividend in Parochia Sancti Georgii Southwark ut jus & Hereditatem suam Et in quam idem Gertrudus non habet ingressum nisi post disseisinam quam Hugo Hunt inde injuste & sine iudicio fecit p̄fato Lionello infra triginta annos &c. Et unde dicit qđ ipsemet fuit seiscitus de tertia parte p̄dict cum p̄t̄id in dominico suo ut de feodo & jure tempore pacis tempore dñi Regis & dñe Regine nunc capiendo inde explecias ad valenciam &c. Et in quam &c. Et inde p̄ducit sectam &c.

Et p̄dict Gertrudus in p̄pria persona sua venit & defendit jus suum quando &c. Et vacat inde ad war Galfridum Williams generosum qui

qui p̄sens est hic in Curia in propria p̄sona sua Et gratis tertiam partem p̄dictam cum p̄tin̄ ei warantizat ꝛc. Et super hoc p̄dictꝛ Lionel-
lus petit versus ipsuꝛ Galfriduꝛ tenentem per
warantiam suam tertiam partem p̄dictam cum
p̄tin̄ in forma p̄dictꝛ ꝛc. Et unde dicit qđ
ipsemet fuit seiscitus de tertia parte p̄dictꝛ cum
p̄tin̄ in dominico suo ut de feodo & iure tem-
poꝛe pacis tempoꝛe dñi Regis & dñe Regine
nunc capiendꝛ inde explecias ad valenciam ꝛc.
Et in quam ꝛc. Et inde producit sectam ꝛc.

Et p̄dictus Galfridus tenens per warantiam
suam defendit ius suum quando ꝛc. Et ulte-
rius vocat inde ad warantizandum Orlandoꝛ
Hartley generosum qui similiter p̄sens est
hic in Curia in pp̄ia p̄sona sua Et gratis
terciam partem p̄dictꝛ cum p̄tin̄ ei warantizat
ꝛc. Et super hoc p̄dictꝛ Lionellus petit versus
ipsum Orlandoꝛ tenentem per warantiam
suam tertiam partem p̄dictam cum p̄tin̄ in
forma p̄dictꝛ ꝛc. Et unde dicit qđ ipsemet fuit
seiscitus de tertia parte p̄dictꝛ cum p̄tin̄ in domi-
nico suo ut de feodo & iure tempoꝛe pacis tem-
poꝛe dñi Regis & dñe Regine nunc capiendꝛ
inde explecias ad valenciam ꝛc. Et in quam ꝛc.
Et inde p̄ducit sectam ꝛc.

Et p̄dictꝛ Orlandoꝛ tenens per warantiam
suam defendit ius suum quando ꝛc. Et ulterius
vocat inde ad warantizandum Iohem Whee-
ler qui similiter p̄sens est hic in Curia in pp̄ia
persona sua Et gratis tertiam partem p̄dictꝛ cum
p̄tin̄ ei warantizat ꝛc. Et super hoc p̄dictꝛ Li-
onellus petit versus ipsum Iohem tenentem
p̄ warantiam suam tertiam partem p̄dictam
cum

cum pñd in forma pñct ꝛc. Et unde dicit qđ ipsemet fuit seissitus de tertia parte pñct cum pñd in dominico suo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Regine nunc capiend inde explestias ad valenciam ꝛc. Et in quam ꝛc. Et inde pducit sectam ꝛc.

Et predictus Johannes tenens per warantiam suam defendit jus suum quando ꝛc. Et dicit qđ predictus Hugo non disseisivit pñct Lionellum de tertia parte pñct cum pñd prout predictus Lionellus per Breve & Narrationem sua pñcta superius supponit Et de hoc ponit se super Patriam, ꝛc.

Et predictus Lionellus petit licenciam Interloquendi & habet ꝛc. Et postea idem Lionellus revenit hic in Curia isto eodem Terminio in propria persona sua Et pñctus Johannes licet solempniter exactus non revenit set in Contemptum Curie recessit & defaultam facit Ideo Consideratum est qđ predictus Lionellus recuperet seissinam suam versus prefatum Gertrudum de tertia parte pñcta cum pertinentiis Et qđ idem Gertrudus habeat de terra predicti Galfridi ad valenciam ꝛc. Et qđ idem Galfridus ulterius habeat de terra predicti Dlandi ad valenciam ꝛc. Et qđ idem Dlandus ulterius habeat de terra pñct Johannis ad valenciam ꝛc. Et idem Johannes in misericordia ꝛc. Et sup hoc pñct Lionellus petit breve Domini Regis & Domine Regine Vicecomiti Comitatus pñct dirigend de habere facienda ei plenariam seissinam de tertia parte pñct cum pertinentiis Et ei conceditur recognabile hic in
dilate

dilate &c. Postea scilicet vicesimo septimo die Julii isto eodem Termino venit hic in Curia predictus Lionellus in propria persona sua & Vicecomes videlicet. A. B. Miles modo mand quod ipse se virtute brevis predicti sibi directi vicesimo quinto die Julii ultimo preterito habere fecit placet Lionello plenariam leisionam de tertia parte predicti cum pertinentiis put per Breve illud sibi preceptum fuit &c.

Entry of a Recovery with single Voucher, of two parts (in nine parts to be divided) of several particulars.

Midus ff. Cuthbertus Goodman generosus in propria persona sua petit versus Germanum Armstrong generosum Duas partes duodecim Messuagiorum in novem partes dividens in Parochia Sancti Martini in campis ut sus & Hereditatem suam Et in quas idem Germanus non habet ingressum nisi post disseisinam quam Hugo Hunt inde iniuste & sine iudicio fecit prefato Cuthberto infra triginta annos &c. Et unde dicit quod ipsemet fuit seistus de duabus partibus predictis cum pertinentiis in Dominico suo ut de feodo & jure tempore patris tempore Domini Regis & Domine Regine nunc capiendo inde explestias ad valenciam &c. Et in quas &c. Et inde producit sextam, &c.

Et predictus Germanus in propria persona sua venit & defendit sus suum quando &c. Et vocat inde ad warantizandum Johannem Wheeler qui presens est hic in Curia in propria persona sua Et gratis duas partes predicti cum pertinentiis ei warantizat &c. Et sup hoc predictus Cuth-

Cuthbertus petit versus ipsum Iohem tenentem p warantiam suam duas partes pdictas cum pinceniis in forma pdicta &c. Et unde dicit qd ipsemet fuit seistus de duabus partibus pdictis cum pinceniis in dominico suo ut de feodo & iure tempore pacis tempore Domini Regis & Domine Regine nunc capiendo inde explestas ad valenciam &c. Et in quas &c. Et inde producit sectam &c.

Et pdictus Iohes tenens p warantiam suam defendit ius suum quando &c. Et dicit qd pdictus Hugo non disseisivit pfatum Cuthbertum de duabus partibus pdictis cum pinceniis put pdictus Cuthbertus per breve & narrationem sua pdicta superius supponit Et de hoc ponit se super Patriam &c.

Et pdictus Cuthbertus petit Licentiam inde Interloquendi Et habet &c. Et postea idem Cuthbertus revenit hic in Curia isto eodem Terminio in ppria plona sua Et pdictus Johannes licet solempniter exactus non revenit set in contemptum Curie recessit & defaultam facit Ideo consideratum est qd pdictus Cuthbertus recuperet seisinam suam versus pfatum Germanum de duabus partibus pdictis cum pinceniis Et qd idem Germanus habeat de terra pdicti Iohis ad valenciam &c. Et idem Iohes in misericordia &c. Et sup hoc idem Cuthbertus petit breve Domini Regis & Domine Regine Vicecomiti Comitatus pdicti dirigend de habere faciend ei plenariam seisinam de duabus partibus pdictis cum pinceniis Et ei conceditur restornabile hic a die Sancti Michaelis in unum Menssem &c. Ad quem diem hic venit pdictus Cuth-

Of the Practice of the

Cuthbertus in ppria persona sua Et Vicecomes videlicet A. W. Miles & C. D. Miles modo mand qđ ipse virtute brevis pđict sibi directi vicesimo septimo die Novembꝛis ultimo pterito habere fecit pfato Cuthberto plenariam seissinam de duabus partibus pđict cum pertinentenciis prout p breve illud sibi pceptum fuit &c.

Entry of a Recovery, double Voucher, of the Profits of the Gaol belonging to *Westminster* Abby, with three Roods of Land, and the Rent of six Loaves of Bread, and six Flaggons of Beer *per diem*.

Mod. II. Daniel Whitby generosus in propria plona sua petit versus Abrahamum Toolley generosum exitus & proficua pvenien de custodia Gaule Abbathie de Westm & tres Rodas Terre & Redditum sex Panum & sex Lagenarum Cervicie per diem cum pñ in Villa Westm ut jus & Hereditatem suam Et in que idem Abrahamus non habet ingressum nisi post disseissinam quam Hugo Hunt inde injuste & sine iudicio fecit pfato Danieli infra triginta annos &c. Et unde dicit qđ ipsemet fuit seissitus de exitibus pficuis tribus Rodis Terre & Redditu pđictis cum pñ in domino suo ut de feodo & iure tempore pacis tempore Dñi Regis & Dñe Regine nunc capiendo inde explestias ad valenciam &c. Et in que &c. Et inde pducit sectam &c.

Et

Et p̄dict Abrahams in p̄pria p̄sona sua
venit & defendit ius suum quando ꝛc. Et vocat
inde ad warantizandum Hugonem Boile gene-
rosulum qui similiter p̄sens est hic in Curia in
p̄pria p̄sona sua Et gratis Exitus p̄focua Tres
Rodas Terre & Redditum p̄dict cum p̄tin ei
warantizat ꝛc. Et super hoc p̄dict Daniel
petit versus ipsum Hugonem Tenentem per
warantiam suam exitus p̄focua tres Rodas
Terre & Redditum p̄dict cum p̄tin in forma
p̄dict ꝛc. Et unde dicit qđ ipsemet fuit seisi-
tus de Exitibus p̄focuis Tribus Rodis Terre
& Redditu p̄dict cum p̄tin in dominico suo
ut de feodo & iure tempore pacis tempore
Dñi Regis & Dñe Regine nunc capiendo
inde explestas ad valenciam ꝛc. Et in que ꝛc.
Et in producit sextam ꝛc.

Et p̄dict Hugo tenens per warantiam suam
defendit ius suum quando ꝛc. Et ulterius vo-
cat inde ad warantizandum Johem Wheeler
qui similiter p̄sens est hic in Curia in p̄pria
p̄sona sua & gratis Exitus p̄focua Tres Ro-
das terre & Redditum p̄dict cum p̄tin ei wa-
rantizat ꝛc. Et super hoc p̄dict Daniel petit
versus ipsum Johem tenentem p̄ warantiam
suam Exitus p̄focua Tres Rodas Terre &
Redditum p̄dict cum p̄tin in forma p̄dict ꝛc.
Et unde dicit qđ ipsemet fuit seistitus de
Exitibus p̄focuis Tribus Rodis Terre &
Redditu p̄dictis cum p̄tinenciis in dominico suo
ut de feodo & iure tempore pacis tempore Do-
mini Regis & Domine Regine nunc capiendo
inde explestas ad valenciam ꝛc. Et inde que
ꝛc. Et inde p̄ducit sextam ꝛc.

Et p̄dict J̄ohes teneus per warantiam suam defendit ius suum quando ꝛc. Et dicit qđ p̄dict Hugo non disseibit p̄fatum Danielem de Exi-
tibus P̄oficuis Tribus Rodis Terre & Red-
ditu p̄dict cum p̄iñ put p̄dictus Daniel per
Brebe & Narrationem sua p̄dicta superius sup-
ponit Et de hoc ponit se sup Patriam ꝛc.

Et p̄dict Daniel petit Licenciam inde inter-
loquendi Et habet ꝛc. Et postea idem Da-
niel reuenit hic in Curia isto eodem Termino
in p̄pria p̄sona sua Et p̄dict J̄ohes licet so-
lemniter exactus non reuenit set in contemp-
tum Curie recessit & defalatu facit Ideo con-
sideratum est qđ p̄dictus Daniel Recuperet sei-
sinam suam versus p̄fatum Abrahamum de Exi-
tibus P̄oficuis tribus Rodis Terre & Redditu
p̄dictis cum p̄iñ Et qđ idem Abrahamus
habeat de Terra p̄dict Hugonis ad valenciam
ꝛc. Et qđ idem Hugo habeat de Terra p̄dict
J̄ohis ad valenciam ꝛc. Et idem J̄ohes in Mi-
serecordia ꝛc. Et super hoc p̄dictus Daniel pe-
tit Brebe Domini Regis & Domine Regine
Vicecomiti comitatus p̄dict dirigend de habere
faciend ei plenar seisinam de Exi-
tibus ꝛc. (ut
antea.)

*Pascha tertio Willielmi & Mariæ
Regis & Regina.*

Entry of a Summons to a Recovery.

COnub. R. J. R. Ar & T. H. Gen in ppri-
is psonis suis pet versus H. D. Gen &
J. H. Gen viginti & octo Mesuagia unum mo-
lendum aquaticum granaticum unum molen-
dum aquaticum stampaticum viginti Cardina-
centum septuaginta & octo Acras Terre unde-
cim Acras Prati ducent & quadraginta Acras
Pasture tres Acras Bosci quadringent septua-
ginta & novem Acras Iampnozorum & buere
& undecim Acras Poze cum pnd in Penrole
Penrole Martha Degibua Porthleaven Bos-
kenloe Penpoll Treboone alias Trewoone
Tregannion Rospeath Bunoarbach Parca-
sowe alias Parcazion Helstone Burrough Layty
Kunseval Dellengoose alias Dellencoole Gwa-
vas Tregathenan Tregaleck St. Johns La-
nuers alias Lanaerths Gweale Payorse &
Gweale Domine Dithney Panan Budock
Landawednack Ludgebozn Kednith Parcasow
alias Parcazion & Helstone ut jus & Hereditat
suam Et in que idem H. & J. non habent in-
gressum nisi post disseisinam quam Hugo Hant
inde injuste & sine iudicio fec pfat Johanni &
T. infra triginta annos &c. Et unde dicunt qd
ipsimet fuer seisi de tenementis pnt tam
pnd in Dominico suo ut de feodo & iure
tempore pacis tempore Domini Regis & Do-
mine Regine nunc capiendo inde exple ad sa-
lenciam

Of the Pradice of the

lenciam &c. Et in que &c. Et inde pducie
sectam &c.

Et pdict H. & J. in ppiis psonis suis vend
& defend jus suum quando &c. Et vocant inde
ad Marantizandum C. Penrose sunt in Com
pdict habeant eum hic a die Sancte Trin in
quindecim dies p Auxilium Cur &c. Item dies
dat est partibus pdict hic &c. Et sup hoc pdict
H. & J. po. lo. suo T. R. & R. B. Attorn suos
conjunctim & divisim versus pfat J. T. de pdict
placito &c.

*Trinitatis tercio Willielmi & Ma-
riae Regis & Reginae.*

Entry of the Recovery upon the Summons
above-mentioned, with Warrant of At-
torney for the Tenants.

Alias put patet Termino Pasche ult
psterito Rotlo &c. continetur sic Cornub n.
Jo. R. Arm & T. H. Gen in ppiis psonis
suis pet versus Henricum D. Gen & H. J.
Gen viginti & octo Mesuagia unum molendi-
num aquaticum granaticum unum molendinum
aquaticum stampaticum viginti Cardina cen-
tum septuaginta & octo Acras Terre unde-
cim Acras Prati ducentas & quadraginta Acras
Pasture tres Acras Bosci quadringent septua-
ginta & novem Acras Jampnozorum & buere
& undecim Acras Poze cum prin in Penrose
Penrose Martha Degibus Porchleaven Bos-
kenloe

kenloe Penpoll Treboone alias Trewoone
 Tregammion Rolpeach Bulwarbath Marcas-
 jowe alias Marazion Helston Burrough Layty
 Runsebal Mellengoole alias Mellencoole Gwas-
 vas Tregathenan Tregaseck St. Johns Lau-
 ners alias Launerths Gweale Payowe &
 Gweale Domine Sithney Mawan Budock
 Landawednock Ludgeban Kedzuth Marcasow
 alias Marazion & Helstone ut sus & hereditatem
 suam & in que idem H. & J. non habent in-
 gressum nisi post disseisinam quam H. inde
 injuste & sine iudicio fecit p̄fat. J. & T. infra
 triginta annos &c. Et unde dic qd ipsimet
 fuerunt seisi de Tenementis p̄dict cum p̄tin
 in dominio suo ut de feodo & jure tempore
 pacis tempore Domini Regis & Domine Re-
 gine nunc capiendo inde explecias ad valen-
 ciam &c. Et in que &c. Et inde produciunt sextam
 &c. Et p̄dict H. & J. in p̄p̄iis personis suis
 vend & defend jus suum quando &c. Et vocant
 inde ad Warantizandum C. P. sum in Com
 p̄dict habeant eum hic a die Sancte Trin in
 quindecim dies p̄ Auxilium Cur &c. Idem dies
 dat est partibus p̄dict hic &c. Et super hoc p̄
 H. & J. po. lo. suo T. R. & R. B. Attoz̄ suos
 conjunctim & divisim plus p̄fat J. & T. de p̄
 placito &c. Et modo ad hunc diem scit ad p̄
 quinden Sancte Trin vener tam p̄dict J. &
 T. in p̄p̄iis p̄sonis suis quam p̄dict H. & J. p̄
 p̄dict T. R. Attoz̄ suum Et p̄dict Com. sum
 &c. p̄ J. F. Attoz̄ suum scit vend & gratis
 tenementa p̄dict cum p̄tin eidem H. J. war
 &c. Et super hoc p̄dict J. R. & R. p̄t versus
 ipsum C. tenen per warant suam tenement
 p̄dict cum p̄tin in forma p̄dict &c. Et unde

dicunt qđ ipsimet fuer' seisiťi de tenementis pđict cum pñd in dominico suo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Regine nunc capiendū inde expleťias ad valentiam &c. Et in que &c. Et inde pducunt sectam &c. Et pđict J. tenend p waran suam defend' jus suum quando &c. Et ulterius vocat inde ad war J. W. qui plens est hic in Cur in ppxia persona sua & gratis tenementa pđict cum pñd ei war &c. Et sup hoc pđict J. R. & T. pet' versus ipsam J. W. tenend p war sua tenementa pđict cum pñd in forma pđict &c. Et unde dicunt qđ ipsimet fuer' seisiťi de tenementis pđict cum pñd in dominico suo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Regine nunc capiendū inde expleťias ad valentiam &c. Et in que &c. Et inde pducunt sectam &c. Et pđictus J. W. tenens per war sua defend' jus suum quando &c. Et dic qđ pđict Hugo non disseisiťit pñť J. R. & T. de tenementis pđict cum pñd put' idem J. R. & T. p breve & Bar sua pđict superius suppon' Et de hoc pon' se sup pñť &c.

Et pđict J. R. & T. pet' licentiam inde interloquend' Et habent &c. Et postea idem J. R. & T. reben' hic in Cur isto eodem Termino in ppxiis pñť suis Et pđict J. W. licet solempnit' exact non reben' set in contempt' Cur recessit & default fac' Ideo cons' est qđ pđict J. R. & T. recuperent seisinam suam versus pñť J. & J. de tenementis pđict cum pñd Et qđ idem J. & J. habeant de Terra pđict J. W. ad valentiam &c. Et idem J. W. in pñť &c. Et super hoc pđict J. R. & T. pet' bre
Do

Domini Regis & Domine Regine Ric^{us} Com^{itis}
 p^{re}dict^{us} v^{er}igend^{us} de habere faciend^{us} eis plenar^e
 seisin^{am} de tenementis p^{re}dict^{is} cum p^{re}dict^{is} Et eis
 conceditur retornabile hic indilate &c. Postea
 scilicet p^{ri}mo die Julii isto eod^{em} Termino ven^{it}
 hic in Cur^{ia} p^{re}dict^{is} J. R. & T. in propriis per-
 sonis suis & Ric^{us} videlicet J. P. Bar^{on} modo mand^{avit}
 q^{uo}d ipse virtute brevis illius sibi direct^{us} p^{ri}mo
 die Junii ult^{imo} p^{re}terit^{us} habere fec^{it} p^{re}lat^{us} J. R. &
 T. plenar^e seisinam de tenementis p^{re}dict^{is} cum
 p^{re}dict^{is} p^{ro}ut per breve illud sibi p^{re}cept^{um} fuit &c.

*Trinitatis sexto Williclmi & Ma-
 riæ Regis & Regine.*

Entry of a Recovery where the Tenant
 appears upon Summons by Attorny the
 same Term, so that the Summons is not
 Entred by it self, but in the body of the
 Recovery only.

Herf. n. Georgius B. Gen^{er} in propria p^{er}-
 sona sua p^{er}te v^{er}olus A. B. Gen^{er} unum
 p^{er}suagium duas Acres Terre & sex Acres
 Pasture cum p^{er}tin^{entia} in Ashwel ut s^{un}t & He-
 reditatem suam Et in que idem A. non habet
 ingressum nisi post disseisinam quam H. B. inde
 injuste & sine iudicio fec^{it} p^{re}lat^{us} G. infra tri-
 ginta annos &c. Et unde dicit^{ur} q^{uo}d ipsemet
 fuit seiscus de tenementis p^{re}dict^{is} cum p^{re}dict^{is} in
 dominico suo ut de feodo et jure tempore p^{re}dict^{is}
 tempore Domini Regis & Domine Regine

nunc capiendo inde expleſias ad valenciā ꝛc.
Et in que ꝛc. Et inde producit ſectam ꝛc.

Et ꝑdict A. in propria perſona ſua veni & defendi ſus ſuum quando ꝛc. Et vocat inde ad war ꝑ. M. hū ſum in Com ꝑdict habeat eam hic a die Sancte Trin in tres ſeptiman ꝑ Auxiliū Cur ꝛc. Idem dies dat eſt parti- bus ꝑdictis hic ꝛc. Et modo ad hunc diem ſciſt ad ꝑdict tres ſeptiman Sancte Trin veni tam ꝑdict G. quam ꝑdict A. in propria perſona ſua Et ꝑdict ꝑ. ſum ꝛc. ꝑ Ricard B. Attoꝝ ſui veni & gratis tenementa ꝑ cum ꝑtin eidem Alexandꝝ War ꝛc. Et ſup hoc ꝑꝛ ꝑ. G. petit verſus ipſam ꝑ. Tenen per war ſuam tenementa ꝑdict cum ꝑtin in forma ꝑdict ꝛc. Et unde dicit qđ ipſemet ſuit ſeiſt de tenementis ꝑdict cum ꝑtin in do- minico ſuo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Regine nunc capiendo inde expleſias ad valenciā ꝛc. Et in que ꝛc. Et inde ꝑduct ſectam ꝛc. Et ꝑdict ꝑ. tenens ꝑ warantiam ſuam defendi ſus ſuum quando ꝛc. Et ulterius vocat inde ad war Johannem Wheeler qui ſiſt ꝑſens eſt hic in Curia in ꝑꝑia ꝑſona ſua & gratis te- nementa ꝑdict cum ꝑtin ei war ꝛc. Et ſuper hoc ꝑdict G. petit verſus ipſum A. tenen per warantiam ſuam tenementa ꝑdict cum ꝑtin in forma ꝑdict ꝛc. Et unde dicit qđ ipſemet ſuit ſeiſtus de tenementis ꝑdictis cum ꝑtin in dominico ſuo ut de feodo & jure tempore pacis tempore Domini Regis & Domine Re- gine nunc capiendo inde expleſias ad valenciā ꝛc. Et in que ꝛc. Et inde producit ſectam ꝛc.

Et

Et p̄ J. tenens p̄ war' suam defend' ius suum
quando &c. Et dic' qđ p̄dict' H. non disseisibit
p̄fat' G. de tenementis p̄dict' cum p̄tind' p̄out
idem G. p̄ h̄ebe & narrationem sua p̄dict' su-
perius suppon' Et de hoc pon' se super p̄i-
am &c.

Et p̄ G. petit licenciam inde inſloquendi
Et habet &c. Et postea idem G. reven' hic in
Cur isto eodem Termino in p̄pria persona
sua Et p̄dict' J. III. licet solempnit' exact' non
reven' set in contempt' Cur recessit Et default
fac' Ideo cons' est qđ p̄dict' G. recuperet seisinam
sua verſus p̄fat' A. de tenementis p̄dict' cum
p̄tind' Et qđ idem A. habeat de Terra p̄dict'
H. ad valenciam &c. Et qđ eadem H. ul-
terius habeat de Terra p̄dicti J. ad valenti-
am &c. Et idem J. in p̄ia &c. Et super hoc
p̄dict' G. petit h̄ebe Domini Regis & Domine
Regine Wic Com' p̄dict' dirigent' de habere
faciens ei plenar' seisinam de tenementis p̄dict'
cum p̄tind' & ei conceditur retornabile hic
a die Sancti Michaelis in tres septiman' &c.
Ad quem diem ven' hic in Cur p̄dict' G. in
p̄pria persona sua Et vic' videt' J. Eston
Armiger modo mand' qđ ipse virtute h̄ebis
illius sibi direct' tricesimo die Junii ult' p̄es-
erit habere fecit p̄fat' G. plenar' seisinam
de tenementis p̄dict' cum p̄tind' p̄out per h̄ebe
illud sibi p̄cept' fuit &c.

*Sect. 2. Of a Præcipe quod Teneat, or Fines
levied upon Writs of Covenant.*

There is a Covenant in the Realty, saith Fitzherbert, for which a Writ properly lyes, where a Man by his Deed grants to another to acknowledge by Fine, certain Lands, Tenements, or other things that may be granted over; in which case, he to whom such Grant is made, shall have a Writ of Covenant against the Grantor to levy a Fine thereof; the Form whereof is thus;

Gulielmus & Maria Dei Gratia Anglie
Scocie Francie & Hibernie Rex & Regina fidei
defensores &c. Vicecomiti Middlesexie salutem
Præcipe A. B. qd iuste & sine dilatione teneat
C. D. Conventionem suam inter eos factam de
quatuor Mesuaglis cum pertinentiis in Paro-
chia Sancti Martini in Campis Et nisi &c.

And the manner of placing the Parcels in this Writ is the same as in a *Præcipe quod reddat*, or Writ of Entry, only there is not that exactness required in this as there must be in the other; for the words *Horreum, Stabulum, Collarium, Marcellum sive Lanifcium, Curtilium, Pomarium*, will lie in a Writ of Covenant, but not in a Writ of Entry, *P. N. B.* 146. F. Brown's Entries, Part, 1. Tit. *Abatement*.

It is called a Fine *quia imponit Finem Liti-
bus, vel Negociis*, as *Bracton, Glanvil* and *Fleta*
will have it, or peradventure from the words
used in the *Cirograph* or *ingrossment* of
the

the Fine, called the Indenture, viz. *Hæc est finalis Concordia facta in Curia Domini Gulielmi & Domine Mariæ Dei Gracia, &c.* And although it be *re vera* but *Fictio Juris*, yet it is accounted of all kinds of Assurances the highest and most esteemed in the Law. And the reason why it is called *fictio juris*, is because it is an Instrument or Assurance containing a final Agreement by consent of the Parties (which are the Cognisors and Cognisees) therein, concerning Lands, Tenements, Hereditaments, Rent, or other things, (whereunto their Majesties Licence must first be had, from the Commissioners of the Alienation Office, before they can alienate the same) and must be acknowledged by the Cognisor, or Deorceant (which is he that parts with his Right in the Estate comprized in the Fine) upon a Writ of Covenant, before the Justices in the Court of Common Pleas, or the Lord Chief Justice of that Court, in his Chamber, or before a Judge of Assise, or some other Justice of either Bench, Baron of the Exchequer, or some Gentlemen of the County where the Lands lie, therunto authorized by Commission out of their Majesties Court of Chancery, whereof one of them ought to be a Knight; and must be ingrossed of Record in that Court, to remain there for the composing all Controversies, as well between the Parties and Privies thereunto, as all Strangers concerned therein, not claiming within five years, according to the Statute.

There

There be four sorts of Fines, Viz.

First, A Fine *sur cognizance de Droit*, come *ceo que il ad de son Done*, which is allways single, and sometimes called a Fine *Sur Release*.

Secondly, A Fine *Sur Cognifans de Droit* come *ceo, &c.* which Grants an Estate in Fee to the Cognifsee and his Heirs, with a Grant and Render back to the Cognifor of some Estate for Life, in Tail, &c. which is double, and called a Fine *Sur Done Grant and Render*.

Thirdly, A Fine *Sur Cognifans de Droit tantum*, which for the most part is single, and sometimes with Grant, and then it is double, and called a Fine *sur Done Grant*.

Fourthly, A Fine *Sur concessit*.

Of these Fines, the second and third being of little or no use, if not wholly antiquated and laid aside, we shall only therefore Treat of the first and last, the force and efficacy of the two other being well enough supplied by Conveyances, &c.

A Fine *Sur Cognifans de Droit* come *ceo que il ad de son Done* (being the chiefeft of Fines, and that by which an Estate passeth absolutely to the Cognifsee, without rendring any thing back) is levyed with Proclamations, according to the Statute of 4 H. 7. cap. 24. And is said to be executed, because the Possession in
Law

Law, of the Estate comprized therein, is vested in the Cognisee immediately, without any Writ of *Habere facias seisinam* to execute the same, as there is in a Common Recovery, upon a Writ of Entry in the *Post*, so that he may Enter and stand seised to the Uses declared in the Conveyance for levying thereof.

The other, being a Fine *sur concessit*, is without Proclamations, and Executory, that is to say, must be executed by Writ of *Habere facias seisinam*; It lies where the Cognisor is seised of the Lands contained therein, and grants an Estate for Life or Years to the Cognisee, who thereupon (if he be not in actual possession of the Lands granted unto him thereby) must be put into possession thereof by the Sheriff, by virtue of the Writ above-mentioned. But if the Cognisee be in possession at the time of levying such Fine, then there needs no Writ of Execution, because the Fine will then enure by way of Extinguishment of Right in the Cognisor.

The next thing to be considered, is of what parts a Fine doth consist, and they are six.

1. The Writ of Covenant.
2. Their Majesties Licence to alienate the Lands contained in the Writ of Covenant, for which you must Compound with the Commissioners of the Alienation Office.
3. The Concord.
4. The Note of the Fine, made by the Clerk of the Kings Silver.
5. The Foot of the Fine made by the Cirographer, and delivered by him to the *Custos Brevium*, after the Proclamations are indorsed thereupon, who keepeth that and the *Præcipe* and Concord, in a Treasury

ry he hath for that purpose, under the Wall of the *Temple Church*. 6. The Proclamations (if it be a Fine *Sur Cognifans de droit come ceo que il ad de son Done*) according to the Statute 4 *H. 7. cap. 24.* which are made after this manner, the *Cirographers Deputy*, who is called the Clerk of the Proclamations, proclaimeth all the Fines in Court every Term, which done, he goes to the *Custos Brevium* Office, and there Indorfeth the Proclamations on the back of every Foot of each Fine.

In the next place, what persons may be Cognifors and Cognisees in Fines, and by what names, for which you are to observe, That all Persons that are capable of granting by Deed may be Cognifors in Fines. But if an Infant, Ideot, one of unsound Memory, or one born Deaf and Dumb, or one Attainted of Felony or Treason, a Feme Covert, or any person compelled thereunto by Threats and Menaces, shall levy a Fine, the Fine so levied by any of them is voidable; but if it be not reversed in time, it shall stand good, and Bar those in the Reversion or Remainder; yet care ought to be taken by the Judges or Commissioners who take the Cognifance of Fines, that such unfit persons be not admitted thereunto in prejudice of their Rights; for although according to the Rule in Law, *Fieri non debet, tamen factum valet.*

But all Bodies Politick or Corporate, whether Ecclesiastical or Civil, may by the Joynt consent of the Head and Members, levy Fines of the Possessions they have absolute Estates in, in right of their Corporations; except they

they be restrained by any Statute Law to the contrary.

By the Statute of 32 H. 8. cap. 28. The Kings Donee in Tail cannot levy a Fine to bind the King or the Issue in Tail.

So, by the Year-Books 1 H. 7. 5. and 24 E. 3. 65. A Fine levied by the Heir of him that is an Intruder upon the Kings Possession, shall be void.

Also by 12 E. 4. 14. And the Statute of 32 H. 8. cap. 28. above-cited, *Bro. Fines* 121. Where Baron and Feme are seised of Lands in Fee, in right of the Feme, if the Baron alienate the Lands in Fee without her consent, after his death she or her Heirs may Reverse the Fine.

As to Cognisees in Fines, any person capable by Law to be a Grantee in a Deed, may be a good Cognisee in a Fine, *Et e contra*. As any person of full Age and sound Memory, women Sole, any person out of Prison, or not Attainted of Treason or Felony may be a Cognisee, and take by a Fine as well as a Deed.

But, an Infant, Feme Covert, Ideot, Madman, Lunatick, one of unsound Memory, or that hath a Lethargy, or wants discretion, one that is Drunk, or born Deaf and Dumb, or Outlawed, or attainted of Felony or Treason, or in Prison, or beyond the Seas, a Bastard, Clerk Convict, or an Alien, any of these may not be a Cognisee properly, nor have nor take by a Deed or Fine, because a Fine acknowledged to any such unfit person, is voidable, and may be reversed
by

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by Error, yet a Fine acknowledged to any such person will be good, until it be so avoided or reversed, *causa qua supra.*

In like manner, any Bodies Politick, or Corporate, not restrained by any Statute Law may be Cognisees in Fines, and have and take the Estates thereby granted to them, provided a Writ of *Quod permittat finem illum levare* do issue to the Justices of the Court of *Common Pleas* to take the same.

Lastly, as to the naming the Parties in Fines, you must observe to set down the true Names of Baptism, and Sur-Name both of the Cognisors and Cognisees therein, with their proper Additions, unless of the King, Queen, or any of Nobility, whose Sur-Names are never used in any Deed, Fine, or other Writing or Instrument, but instead thereof you need only insert their Christian Names, and Titles of Dominion, Dignity and Honour; as, *Serenissimus Dominus Guilielmus Rex Anglie*; *Serenissima Domina Maria Regina Anglie*; *Illustrissimus Dominus Georgius Princeps Danie*; *Illustrissimus Dominus Guilielmus Dux Gloucestrie*; *Guilielmus Nobilis Marchio Wigornie*; *Aubrey de Vere Prehonorabilis Comes Oxonie*; *Franciscus Prehonorabilis Vicecomes Mountague*; *Henricus Prehonorabilis Dominus Arundel*, *Baro de Warder*, & *Comes Sacri Imperii.*

Then as to the Inferior Nobility, that is to say, Knights, Esquires and Gentlemen, They must be inserted in Fines by their Christian-Names, Sur-Names, Orders of Knighthood, Titles and Additions.

As,

As, Thomas Digby peclarissimi Ordinis
Garterii Miles; Johannes Cliffozd Baneretus;
Guilielmus Mozley Miles Balnei; Ja-
cobus Minnington Baronettus; Iosephus
Middleton Miles; Humfridus Davenport Ar-
miger; Henricus Audley Generosus.

So, the Dignified Clergy must have their
proper Titles and Additions in Fines, as,
Guilielmus providencia divina Archiepiscopus
Cantuarensis, totius Anglie Primas & Petro-
politanus; Johannes providencia divina Ar-
chiepiscopus Eboracensis, Anglie Primas &
Metropolitanus; Illustris Princeps ac Domi-
nus Thomas providencia divina Comitatus Pa-
lentinus & Diocesis Dunelmensis Episcopus;
Guilielmus providencia divina Wintoniensis
Episcopus, &c.

So of other Accademical Dignities, as
Thomas Denham Sacre Theologie Professor;
Johannes Bird Sacre Theologie Baccalaureus;
Guilielmus Austin Artium Magister.

Or, Robertus Finch Legum Doctor; Hen-
ricus Finch Legum Baccalaureus.

Or, Galfridus Holms in Medicinis Doctor;
Humfridus Johnson in Medicinis Baccalau-
reus.

Then, as to the *Chancery* and *Common Law*
they are thus distinguished, viz. Heneage Comes
Nottinghamie Summus Anglie Cancellarius;
Johannes Somers Miles Custos Magni Sigilli
Anglie; Johannes Treboz Miles Magister Ro-
tulozum.

Johannes Holt Miles Capitalis Iusticiarius
ad Placita in Curia Domini Regis coram ipso
Rege tenenda; Willielmus Gregory Miles
unus

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unus Justiciariozum ad placita in Curia Domini Regis coram ipso Rege tenenda.

Georgius Treby Miles Capitalis Justiciarius Curie Domini Regis de Banco; Johannes Powel Miles unus Justiciariozum Curie Domini Regis de Banco.

Robertus Atkins Miles Capitalis Baro Curie Domini Regis de Scaccario; Johannes Turton Miles unus Baronum Curie Domini Regis de Scaccario.

Edwardus Ward Miles Attornatus Domini Regis & Domine Regine Generalis; Johannes Trevor Miles Solicitator Domini Regis & Domine Regine Generalis.

Johannes Tremain Miles Serviens Domini Regis & Domine Regine ad Legem; Birch Serviens ad Legem.

Barresters at Law are named in Fines Esquires, and Attornies Gentlemen.

There are no Additions in Fines under the Degree of Gentleman; and if there be two of a Name in a Fine, be they Cognifors or Cognisees, as Father and Son, Grandfather or Uncle and Nephew, they must be inserted in the Fine, by Senior and Junior, to distinguish them.

As to Corporations, care must be taken to express them in the Fine, by the very words they are incorporated by in the Patent or Charter.

In the next place we shall shew you what things and by what names Fines may be levied, with the manner of placing the Parcels therein.

For

For which you must know, That a Fine may be levied of any thing Ecclesiastical or Temporal, that is inheritable, and in *Esse*, (at the time of the levying thereof,) of which a *Præcipe quod reddat*, or Writ of Entry lyeth, or may be brought; but not *e converso*, *causa qua supra*.

And therefore a Fine may be levied of an Honour, Barony, Castle, Borough, Manor, Island, Forest, Chase, Hundred, Park, Scite of a Manor, Scite of a dissolved Monastery.

Also, of a Messuage, Malthouse, Brew-house, Bakehouse, Elaboratory, or Chymical Work-house, or any kind of Working-house which is separate from a Dwelling-house; a Cottage; a Barn, Stable, Shop, Cellar, Toft, Mill, Dovehouse, Slaughterhouse, Curtilage, Garden, Orchard, Land, Meadow, Pasture, Wood, Furze and Heath, More, Reed-Ground, Fresh and Salt Marsh, Alder-Ground, Rushy-Ground, Land covered with Water, Rent, the yearly Rent of six Shillings and Eight pence, issuing out of one Messuage with the Appurtenances, called Stockings, in A. the Rent of six couple of Capons, twelve Pullers, six Turkeys, twelve couple of Ducks, a Pepper Corn, a Rose, &c.

Of the Office of a Bayliff, or any other Office.

Of Common of Pasture, Common of Pasture that belongs to one Messuage, ten Acres of Lands, &c. Pasture for twenty Sheep, Pasture for six Cows, four Bullocks, four Heifers, &c.

Of the Practice of the

Of free Fishing, free Fishing in the Water of *A.*

Of the liberty of Fouldage, of one Fould course, &c.

Of one Salt Pit, of a Bullary of Salt Water, &c.

Of a Wharf, a Kay, &c.

Of free Waren, a Way, a Fair, a Market, view of Frank Pledge, Waifs, Estrays, Felons Goods, Goods of *Felo's de se*, Fugitives, and of Persons Outlawed for Treason or Felony.

Of Rectories, Prebends, Hospitals, free Chappels, &c.

Of Tithes, Portions of Tithes, Oblations, Obventions, &c.

Of the Advowson of a Church, Advowson of the Vicaridge of a Church, &c.

Then, as to parts of intire Things, they pass in Fines by the Names of Moieties, Two parts to be divided into Nine parts, Three parts to be divided into Six parts, or a Third part, &c.

But where a Manor is divided into two parts, in such manner as that it is not extinct, each part must pass by the name of the whole.

So if a Mesuage and twenty Acres of Land be divided, each part may pass by the name of one Mesuage and ten Acres of Land, and not by the name of the Moiety of one Mesuage and twenty Acres of Land.

Lastly, in placing the parcels, observe these general Rules.

First, That one Manor may be part of another Manor, and pass by the name of that Manor.

Se-

Secondly, That a Castle or Hundred may be part of a Manor, and pass by the name of that Manor, with the Appurtenances; though the safer way is to pass it by its own name.

Thirdly, That where divers Manors are of one name, they must be inserted in the Fine, with their proper distinctions, as *East-Dale, West Dale, &c.*

Fourthly, That the County, City Town, and Parish where the Lands lye, must be certainly named in the Fine; as, if there be two Towns, *Upper* and *Nether Dale*, and a Fine be levied of Lands in *Upper Dale*, it will not be safe to name only *Dale* in the Fine, without addition; and if *Nether Dale* should be named, the Lands lying in *Upper Dale* would not pass.

Fifthly, That a Fine of a Presentation to a Church only, as the next Avoidance of a Vicaridge not endowed, must be *De Advocacione Ecclesie de A.* without the words *cum pertinentiis*; Of a Vicaridge Endowed, *de Advocacione Vicarie Ecclesie de A.* without *cum pertinentiis* also: but Advowsons in gross, Rectories, Parsonages or Impropriations, pass by the words *de Rectoria Ecclesie de A. cum pertinentiis.*

Sixthly, High Wood and Under Wood pass by the name of Estovers.

Seventhly, House Bote, Fire Bote, Hay Bote and Plow Bote, pass all of them in a Fine by the name of Estovers.

Eighthly, That more number of Acres is always mentioned in Fines than what they really are, notwithstanding no more will

pass than what appears in the Deed to lead the Use thereof.

Ninthly, That the more worthy Parcels ought to be placed before the less worthy; as an Honor before a Castle, a Castle before a Manor, a Manor before a Messuage, a Messuage before a Cottage (being a place of Habitation for Man, though the meanest) before Land.

So, the Genus must be placed before the Species; as Land, the Genus to Meadow, Pasture, Wood, Furze and Heath, Moor Lands, Reed Ground, Marish Lands, Alder Grounds, Rush Grounds, Sallow Grounds, must be placed before them.

So, Boscus being the Genus must be placed before the Species, Jampnum & Bruera, Jun-caria, Alnetum, Ruscaria, Salicetum, &c.

Tenthly, Intire Things are to be placed before Moyeties or Parts; as de Manerio de A. cum pertinentiis in C. ac de medietate Manerii de B.

So, Parts of Things excepted ought to be placed after those out of which they are excepted; as, de Manerio de A. cum pertinentiis in B. exceptis tribus Mesuagiis Centum & quinquagint Acris Terre quadraginta Acris prati & ducentis Acris pasture cum pertinentiis in B.

Eleventhly, Where the Writ of Covenant consists of divers distinct Parcels, the course is to enumerate them in the Precipe before the Concord, after this manner, as far as eight several Particulars do extend; as, de Honore de A. cum pertinentiis; ac de Castro de E. cum pertinentiis; Pecnon de Burgo de C. cum pertinentiis

ptin^d Accia de Foresta de D. cum pertin^d; ac de Chalea de C. cum pertinenciis; Pecnon de Hundredo de F. cum pertinenciis; Accia de Parco de G. cum pertinenciis; ac de Panerio de H. cum pertinenciis; and so forward.

The Precipe then being only a Recital of the Contents of the Writ of Covenant, may not improperly be called the Title or Head of the Concord, and is in this Form;

Lincoln^d H. Precipe Wrie Turberhil generoso qd^d iuste &c. Teneat Jonathan Scribblehil generoso Conventionem &c. de Panerio de A. cum pertinenciis ac de scitu Panerii de B. cum pertinenciis Pecnon de decem Mesuagiis quinque Gardinis quingentis Acris terre quadraginta Acris prati mille Acris pasture Centum solidat^d Reddit^d Communia pasture pro omnibus & omnimodis averiis Communia Turbarie Libera Piscaria in aqua de D. Hundino & Mercato Visu Franci Pleгии & Bonis & Catalis Felonum & Fugitivorum cum pertinenciis in A. B. C. & D. Et nisi &c.

And therein you are to take care to place the Parcels according to the Directions above-mentioned.

But as to the Concord, you need not recite the Parcels so particularly therein, as they are in the Writ of Covenant, or Precipe thereupon, but to name them in gross by the word *Tenementa*, which denotes any number or quantity of Things or Parcels together; as Mesuages, Brewhouses, Malthouses, Cottages, Barns, Stables, Shops, Cel-

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lars or Warehouses, Tofts, Mills, Dovehouses, Curtilages, Gardens, Orchards, Land, Meadow, Pasture, Wood, Furze and Heath, Morish Ground, Reedy Ground, Marish Ground, Alder Ground, Rushy Ground, Sallow Ground, and Land covered with Water; all these Particulars go under the denomination of Tenements, and pass in a Fine, viz. in the Concord, by the word *Tenementa*.

But an Honour, Castle, Burrough, Manor, Forest, Chase, Hundred, Park, scite of a Manor, scite of a dissolved Monastery, a Soke, a Barony, Island, Rent, Office, Common, Free Fishing, Faldage, Salt Pit, Salt Pan, Bullary of Salt Water, a Wharf, a Kay, Free Waren, a Way, a Fair, a Market, View of Frank Pledge, Goods and Chattels of Felons, and Fugitives, *Felo's de se*, *Deodands*, Courts Lete, Courts Baron, Profits of Courts, Waifes, Estrays, Franchises, Returns of Writs, Wreck, Rectories, Tythes, Prebends, Oblations, Obventions, Corodies, Toll, a Passage, a Ferry, Stallage, Picage, Pontage, a Liberty, a Bailiwick, Advowsons of a Church or Rectory, or Vicaridge, or Portions of Tythes, Moyeties, or Parts of any Thing; all these must be particularly named in the Concord, as well as the Precipe, or else it will be Error.

Neither will Messuages named by themselves, in a Precipe, pass by the word *Tenementa* in the Concord, but *Messuagia*; and the like Rule is to be observed in any other intire Things, as hath been noted above.

Note,

Note, where there are divers Cognisees in a Fine, the Right must be limited only to one of them; but where a Fine is from divers Cognisors, to one or more Cognisees, all the Cognisors must warrant for them and their Heirs severally, to the Cognisee to whom the Right is limited.

If divers persons have made several small Purchases severally in one County, they may, to save Charges, joyn all together in one Fine; in which Case, the Writ of Covenant must be brought by all the Grantees against the Grantors, and every one of them warrant for himself and his Heirs, against him, and them only.

The next thing to be enquired into, is, who have power to take Fines, and by what means.

For which you are to know, That there are but two manner of ways for any persons to take the acknowledgment of Fines out of the Court of *Common Pleas*, and they are one, *Virtute Officii*, and the other *Virtute Commissionis*.

The only person who hath power to take Cognisance of Fines out of Court, is the Lord Chief Justice (*pro tempore*) of the *Common Pleas*, who may take and certify the acknowledgment of any Fine, without Commission, either at his Chamber, or any place elsewhere out of Court.

Those that take and certify the acknowledgment of Fines by Commission, are

(1.) The Justices of Assize, in their Circuits.

(2.) The

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(2.) The Justices of either Bench, and the Barons of the *Exchequer*.

(3.) The Sergeants at Law.

(4.) The Gentlemen in the County, City, Corporation, Town, or Place where the Cognisors (who are to acknowledge the Fine) do reside.

As to the Justices of Assise, though it is said they may take and certifie Cognisances of Fines by the general words of their Patent, yet they do not certifie them (now, whatever they have done formerly) without a special Writ of *Dedimus Potestatem*.

So, the Judges, Barons, and Sergeants at Law, may, and usually do, first take the acknowledgment of the Cognisors to the Fine, without Writ of *Dedimus Potestatem*, but the Attorney doth afterwards sue out a special *Dedimus* for them to certifie their Caption thereof, containing the Concord, and other proceedings thereupon.

But the other Commissioners, who, as hath been said before, are Knights and Gentlemen of the County or Place where the Parties do inhabit, have always a special Writ of *Dedimus* first directed to them to authorise and empower them to act therein in such manner, and to the same purpose as the Lord Chief Justice of the *Common Pleas* may do *ex officio*; which Writ of *Dedimus Potestatem*, or Commission so directed to them, doth contain in it a Clause supposing the Parties Cognisors in the Fine, to be unable, for their Impotency and Infirmitie of Age, to travel to *Westminster Hall* (where the Court of *Common Pleas* is) to perform the same; and by such Com-

mission, upon the Surmises aforesaid, the Commissioners have power to take the Cognisance of the parties to Fines, either from them alltogether at one time, or from each of them asunder, at several Times, and in several Places, according to their discretions, and the emergencies of the Affairs of the Cognisors.

If Husband and Wife be Cognisors, the Wife must be examined apart by her self, whether she be content spontaneously, without menace or fear of her Husband, to part with her Right; and then one of the Commissioners must acquaint her with the contents of the Fine, and if her Age be doubted of, she may be examined upon Oath, which being done, and the Fine read to the other Cognisors also, they must subscribe their Names to the Concord on the right Hand of it opposite to the Caption, and then the Commissioners must also subscribe the Caption on the left Hand under the Concord, with the day, month, and year of the Kings Reign when it was taken, and return the Writ of *Dedimus Potestatem*, with the Concord into the Court of *Common Pleas*, within a year at farthest, after the Caption; and if any of the Commissioners, in whose custody the same shall be, or any of his Executors shall refuse so to do, the Cognisee or Cognisees, or other Party thereby agrieved may compel him or them by *Cerciorari* to certify the same.

In

In the next place I shall shew you how a Fine is acknowledged at the Bar, that is, before the Judges of the *Common Pleas*, in open Court.

To do this, The Attorney must deliver the Writ of Covenant under Seal, with the Preceipe and Concord; fairly Ingrossed on Parchment, to one of the Sergeants at Law (whom he shall chuse) at the Bar, where the Cognisors must be present to acknowledge the Fine.

Which being done, the said Sergeant will desire the Lord Chief Justice that the Appearance of the Cognisors may be Recorded; which granted, the Sergeant saith,

Deniers le Roy.

To which the second Praenotary answereth

Que Donera ?

Whereunto the Sergeant replies

Cestuy que adera,

Then the second Praenotary saith,

Trahes la Pair.

To which the Sergeant answereth, thus,

**Ove vostre Conge, la Pair est tiel-
cestascavoir, que l'avandit Jean Calon reconust
l'avandits Tenements ove les appurtenances
d'estre droit del' dit Francis Hampton come ceo
que dit Francis ad de done l'avandit Jean Et ceo
il ust remise & quit clame de luy & ses Heirs
a l'avandit Francis & ses Heirs a tous jours.**

Et

Et Ouster le dit Jean uſt Chaunt pur luy & ſes
Heirs que ils Garrant a l'abandit Francis &
ſes Heirs l'abandits Tenements ove l'appurte-
nances encountre l'abandit Jean & ſes Heirs a
touts jours Et pur ceſt Recogniſſance Remiſſion
Quitclaiſe Fine & Pair dit Frauncis uſt done
al'abandit Jaen Cent Libres Sterling.

And in this manner the Sergeant reciteth
in French the Concord, having firſt rehearſ-
ed the Subſtance of the Writ of Covenant,
with the particulars of the Lands therein
contained.

Which done, the Sergeant will ſend the
Wives of the Cogniſors (if there be any) to
the Puiſne Judge upon the Bench, to be exa-
mined whether they paſs away their Right
of their own free will, without dread or
compulſion; which Judge taketh the Con-
cord of the Sergeant, and examineth the
Women apart, privately, and after that deli-
vereth the Concord to the Prænotary to be
Recorded.

Then the Attorney muſt take the Precipe
and Concord (after they are Recorded by
the Court) and file them to the Writ of
Covenant, and having paid the Fees of the
Court, as he is hereafter directed in the Bills
of Charges, he muſt paſs the ſame through
the ſeveral Offices in manner following.

You muſt carry the Writ of Covenant ſo
filed to the Precipe and Concord, to the Com-
miſſioners of the Alienation, at their Office
in the *Inner Temple*, to be compounded for
the Kings Fine, and entred and indorſed;
which

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which done, you must make a Warrant of Attorney for the Cognisee thus ;

Cesser' R. Johannes Turton generosus ponit loco suo Johannem Tyrril Attoznatum suum ad prosequend Breve de Conventione versus Abrahamum Fisher de uno Messuagio decem acris Terre octo acris prati & sexdecim acris pasture cum pertinentiis in Brentwood &c.

Which Warrant of Attorney you must File with the Clerk of the Warrants, who will stamp the Writ of Covenant, with the Office Mark ; and then you must carry the Writ of Covenant, with the Precipe and Concord affixed to it, to the Office of the Clerk of Inrollments of Fines, &c. who will return your Writ of Covenant, and stamp the same with the Office Mark.

Then carry it to the *Custos Brevium* to Enter it, and Indorse the Proclamations thereupon ; which being done, you must from thence carry it to the Clerk of the Kings Silver, who will make an Entry thereof, together with the Fine and Post-Fine, in his Book ; and that being done, it will be adjudged a perfect Fine in the sense of the Law, although any of the Parties thereunto should dye before it passeth through any of the other Offices.

Then take it from the Clerk of the Kings Silver, and carry it to the Cirographers Office, where the Clerk who deals for the County where the Lands lye, will make the Cirograph, or Indentures of the Fine, which
you

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you must call for some time after, and then your Fine is completed.

The Charges of a Fine acknowledged at the Bar, are as followeth;

	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Sergeant at the Bar, } for drawing the Fine	00	03	04
To the second Prænotary, or his Secondary for Recording the same	00	01	04
Fees paid in Court to the Box and Officers	00	02	08
For drawing the Precipe and Concord	00	03	04
For Ingrossing the same	00	02	06
For the Kings Fine	} <i>According to the Compositi-</i>		
To the Master in <i>Chancery</i> for Indorsing the Writ of Cove- nant	00	00	04
To the Receiver	00	00	06
To the Clerk who Enters the Writ of Covenant, if with- in the Term	00	00	06
If done in the Vacation	00	01	00
To the Clerk that Indorseth the Writ of Covenant if in Term time	00	00	04
If in the Vacation, you pay to him	00	00	06
	To		

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Curfitor for the Writ } Covenant and Seal	00	02	06
For making the VVarrant of } Attorney and filing the fame	00	00	08
For returning the Writ of Co- venant, to the Clerk of the Inrolments, and the Party } that profecutes the fame	00	02	00
To the <i>Custos Brevium</i>	00	03	08
To the Clerk of the Kings Sil- } ver in Term time	00	00	10
If out of Term	00	01	02
To the Cirographer in Term } time	00	05	08
If in the Vacation	00	06	02
To the Cirographers Clerk of } the County where the Lands lye, for the Indentures for } the first VVaranty	00	03	06
And for every VVaranty more	00	00	06
For the Attornies Fee for pas- } fing the Fine	00	03	04

But if the Fine be acknowledged before the Lord Chief Justice of the Court of *Common Pleas* at *Westminster*, then it must be sued out in this manner :

First you must draw the Precipe in Paper, and then Ingross it in a fair Hand in Parchment, according to the Precedents hereafter set

set down, and then go with the Cognisor or Cognisors to the Lord Chief Justices's Chamber, and deliver both the Parchment and Paper draught, to the Clerk of the Fines there, who will cause the Cognisors to subscribe their Names to the Concord, and inquire of you if you know the Parties, and cause you to subscribe the Fine at the bottom, accordingly, in this manner, viz. *I. E. cogni partes*; VVhich done, he will get the Lord Chief Justices's Hand both to the Caption of the Concord ingrossed in Parchment, and that in Paper, which last is kept by the said Clerk of the Fines, but that in Parchment you must carry to the Cursitor, who deals for the County where the Lands comprised in the Fine do lye, who will thereupon make you out a VVrit of Covenant, which you are to get compounded by the Commissioners of the Alienation (as hath been before mentioned) before it be sealed: which done, make your VVarant of Attorny, and get it filed with the Clerk of the VVarrants; then file your VVrit of Covenant and Precipe and Concord together, and get your VVrit of Covenant returned, and signed by the Clerk of the Inrollments, and carry your Fine to the *Custos Brevium* to be Entred, and have the Proclamations indorsed upon it, and from thence carry it to the Clerk of the Kings Silver to be Entred in his Office; and after that carry it to the Cirographers Office, and get the Clerk of the County where the Lands lye to make the Indentures thereupon, and then your Fine will be perfect.

The Charges of a Fine acknowledged before the Lord Chief Justice of the Common Pleas, at his Chamber, are as followeth.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For drawing the Precipe and Concord	00	03	04
For acknowledging the Fine before the Lord Chief Justice	00	11	08
For Ingrossing the same	00	02	06
To the Cursitor for the VVrit of Covenant, making and Sealing	00	02	06
For the Kings Fine at the Alienation Office	} <i>According to the value of the Land.</i>		

Fees in the Alienation Office.

To the Master in Chancery there, for every VVrit of Covenant both in Term and Vacation	00	00	04
To the Receiver there, both Term and Vacation	00	00	06
To the Clerk that Enters the VVrit in Term time	00	00	06
If in the Vacation	00	01	00
To the same Clerk for Indorsing the VVrit of Covenant both in Term and Vacation	00	00	06

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the VVarant of Attorney } making and filing	00	00	08
To the Clerk of the Inrollment Office for returning the VVrit of Covenant, together with the Attorney prosecu- ting the same }	00	02	00
If the Fine be exemplified, then you pay to the said Clerk for the use of the Judges of the <i>Common Pleas</i> , for Inrol- ment thereof }	00	06	08
And for exemplifying every such Inrolment thereof }	00	05	00
And to the same Clerk for In- rolling every Fine, for each Roll }	00	08	04
And for exemplifying the same after that rate }	00	08	04
To the <i>Custos Brevium</i> Office, for passing every Fine }	00	03	08
To the Clerk of the King's Silver Office in Term time }	00	00	10
If the Fine be acknowledged out of Term before the Lord Chief Justice 4 <i>d.</i> more, but if taken by <i>Dedimus Potesta-</i> <i>tem</i> , in the County, then you pay }	00	01	08
To the Girographer in Term time }	00	05	08

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
If in the Vacation you pay	00	06	02
To the Clerk of the County in the Cirographers Office, where the Lands lie, for the Indenture, for the first Waranty	00	03	06
For every Waranty afterwards	00	00	06
To the Attorney that passeth the Fine through the several Offices	00	06	08

The Charges of a Fine acknowledged before Commissioners in the Country by Dedimus.

To the Cursitor for the <i>Dedimus</i>	01	04	01
To a Judge for his <i>Allocatur</i> , if a Knight or Sergeant at Law be not present at the time of the acknowledgment of the Fine	00	04	00
All the rest of the Fees are the same, as when acknow- ledged before the Lord Chief Justice			

The manner of suing out a Fine taken in the Country before the Judge of Assise.

First, You are to take from the said Judges Clerk of the Fines a Copy of the *Præcipe*, which you are to carry to the Cursitor to make your Writs of Covenant and *Dedimus*, the later bearing Teste after the Writ of Covenant.

venant. Then get your Writ of Covenant compounded with the Commissiones of the Alienation, and entred and indorsed as before, then get both the Writs sealed.

That done, carry the *Dedimus* back to the said Judges Clerk of the Fines, who will thereupon indorse the Concord, then get the said Judges Hand to the same.

Then get the Clerk of the Inrollments to Return your Writ of Covenant, and the *Custos Brevium* to indorse the Proclamations thereupon.

After that carry it to the Kings Silver Office to be Entred there; which done, get your Fine Indorsed in the Cirographers Office, and it will be finished.

Note, The Charges in this are the same, as when acknowledged before the Lord Chief Justice, the Caption being 11 s. 8 d. only the Cursitor hath for the *Dedimus Potestatem* 9 s. 6 d.

A Fine *Sur Cognizance de Droit come ceo, &c*
from one Cognisor to one Cognisee.

Missus ff. Precipe Johanni Calon generoso quod iuste &c. Teneat Francisco Hampcon Armigero conventionem &c. De uno Meluagio uno Cotagio uno Horreo decem Acris Terre octo Acris Prati & decem Acris Pasture cum pertinenciis in Parochia de Greenford alias Sanford Et nisi &c.

Et est Concordia talis scilicet quod predictus Johannes recognovit predicta tenementa cum pertinentenciis esse ius ipsius Francisci ut illi que idem Franciscus habet de dono predicti Johannis Et illi remisit & quieti clamavit de se & heredibus suis predicto Francisco & heredibus suis imperpetuum Et preterea idem Johannes concessit per se & heredibus suis quod ipsi warrantant predicto Francisco & heredibus suis predicta tenementa cum pertinentenciis contra predictum Johannem & heredes suos imperpetuum Et pro hac &c.

Capit & Cogni apud Greenford
in Comitatu predicto (talibus die
& anno) coram &c.

John Cason.

A Fine of the same, from one Cognisor
to two Cognisees, two Warranties.

Surr. N. Precipe Roberto Armstrong & Johanni Butler quod iuste &c. Teneant Willmo Noble Generoso Conventionem &c. De Manerio de Stoke cum pertinentenciis Ac de sex Mesuagiis uno Horreo uno Stabulo uno Gardino uno Pomario centum Acris Terre viginti Acris Prati & decem Acris Pasture cum pertinentenciis in Stoke Et nisi &c.

Et est Concordia talis scilicet quod predicti Robertus & Johannes recognoverunt predicta Manerium & Tenementa cum pertinentenciis esse ius ipsius Willmi ut illi que idem Willmus habet de dono
pre

predictorū Robti & Johis Et illi remiserunt & quiet clamaverunt de ipsis Robto & Johe & heredibus suis predicto Willo & heredibus suis imperpetuum Et preterea idem Robtus concessit pro se & heredibus suis quod ipsi warant predicto Willo & heredibus suis predicta Manerium & Tenementa cum ptin contra predictū Robtum & heredes suos imperpetuum Et ulterius idem Johes concessit p se & heredibus suis qđ ipsi warant predicto Willo & heredibus suis predicta Manerium & Tenementa cum ptinenciis contra predictum Johem & heredes suos imperpetuum. Et pro hac &c.

Capit & Cognit apud Guildford
in Com predicto (talibus die &
anno) coram &c.

Robert Armstrong.
John Butler.

A Fine of the same of one Cognisee to two
Cognisors, and their Wives two Warranties.

Essex' ff. Precipe Waltero Davis & Marie
Uxorē ejus & Willo Jones & Elizabethē Uxorē
ejus qđ iuste &c. Teneant Johanni Potts Per-
catori conventionem &c. De quatuor Mesua-
giis duobus Cotagiis tribus horreis centum
Acris Terre centum Acris Prati centum Acris
Pasture quadraginta Acris Bosci viginti Acris
Jampnozū & hūere communia Pasture & com-
munia Turbarie cum pertinenciis in Burne-
wood Chensford Illford Rumsford & in Pa-
rochiis de Shadwell & Bow ac de Advocac-
tione

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tionē Ecclesie de Turnwood Pecnon de omni-
bus decimis proveniēd crescend seu renoband de
& in tenementis p̄dictis Et nisi &c.

Et est concordia talis scilicet qđ p̄dicti Wal-
terus & Maria & Willus & Elizabetha recogno-
verunt p̄dicta tenementa communias & deci-
mas cum pertinenciis ac Advocationem p̄dictam
esse ius ipsius Johannis ut illi que idem Jofes
habet de dono p̄dictorum Walteri & Marie &
Willi & Elizabetha Et illi remiserunt & qui-
et clamaverunt de ipsis Waltero & Maria &
Willlo & Elizabetha & heredibus suis p̄dicto
Johanni & heredibus suis imperpetuum Et pre-
terea iidem Walterus & Maria concesserunt pro
se & heredibus ipsius Walteri quod ipsi Warant
p̄dicto Johanni & heredibus suis p̄dicta tene-
menta communias & decimas cum pertinenciis
ac Advocationem p̄dictam cont̄ p̄dictos Wal-
terum & Mariam & heredes ipsius Walteri
imperpetuum Et ulterius iidem Willus &
Elizabetha concesserunt pro se & heredibus ipsius
Willi quod ipsi Warant p̄dicto Johanni &
heredibus suis p̄dicta tenementa communias &
decimas cum pertinenciis ac advocationem p̄-
dictam cont̄ p̄dictos Willum & Elizabetha & he-
redes ipsius Willi imperpetuum Et pro hac &c.

Capit & Cognit apud Chensford
in Com̄ p̄dicto (talibus die
& anno) coram &c.

Walter Davis.

Mary Davis.

Will. Jones.

Eliz. Jones.

A Fine of the same, one Cognisee to three
Cognisors and their Wives.

Midō II. Precipe Johanni Gill & Sare Wrozi ejus Mattheo Hughs & Jane Wrozi ejus & Johanni Lowry & Ellene Wrozi ejus qđ iuste. &c. Teneant Thome Wridmore Conventionem &c. de uno C. tagio uno Horeo uno Stabulo duobus Gardinis duobus Pomariis duobus Curtilagiis centum Acris Terre viginti Acris Prati quadraginta Acris Pasture viginti Acris Bosci & quadraginta Acris Sampnozū & bꝛꝛere cum pertinenciis in Harrow super montem & Northal.

Et est Concordia talis scit qđ p̄dicti Iohes & Sara Mattheus & Jana & Iohes & Ellena recognoverunt p̄dicta tenementa cum p̄tinentiis esse ius ipsius Thome ut illi que idem Thomas habet de dono p̄dictorū Johannis & Sare Matthei & Jane & Johannis & Ellene Et illi remiserunt & quieti clamaverunt de ipsis Johanne & Sara Mattheo & Jana & Johanne & Ellena & heredibus suis p̄dicto Thome & heredibus suis imperpetuum Et p̄terea iidem Johannes Gill & Sara concesserunt pro se & heredibus ipsius Sare qđ ipsi Warant p̄dicto Thome & heredibus suis p̄dicta tenementa cum p̄tinentiis contra p̄dictos Johannem & Saram & heredes ipsius Sare imperpetuum Et ulterius iidem Mattheus & Jana concesserunt pro se & heredibus ipsius Jane qđ ipsi Warant p̄dicto Thome & heredibus suis p̄dicta tenementa cum p̄tinentiis contra p̄dictos Mattheum & Janam & heredes ipsius Jane imperpetuum Et etiam iidem Iohannes

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tionem Ecclesie de Turnwood Pecnon de omni-
bus decimis proveniend crescend seu renovand de
& in tenementis p̄dictis Et nisi &c.

Et est concordia talis scilicet qđ p̄dicti Wal-
terus & Maria & Willus & Elizabetha recogno-
verunt p̄dicta tenementa communias & deci-
mas cum pertinenciis ac Advocationem p̄dictam
esse jus ipsius Johannis ut illi que idem Jofes
habet de dono p̄dictorum Walteri & Marie &
Willi & Elizabetha Et illi remiserunt & qui-
et clamaverunt de ipsis Waltero & Maria &
Willlo & Elizabetha & heredibus suis p̄dicto
Johanni & heredibus suis imperpetuum Et pre-
terea iidem Walterus & Maria concesserunt pro
se & heredibus ipsius Walteri quod ipsi Warant
p̄dicto Johanni & heredibus suis p̄dicta tene-
menta communias & decimas cum pertinenciis
ac Advocationem p̄dictam cont̄ p̄dictos Wal-
terum & Mariam & heredes ipsius Walteri
imperpetuum Et ulterius iidem Willus &
Elizabetha concesserunt pro se & heredibus ipsius
Willi quod ipsi Warant p̄dicto Johanni &
heredibus suis p̄dicta tenementa communias &
decimas cum pertinenciis ac advocationem p̄-
dictam cont̄ p̄dictos Willum & Elizabetha & he-
redes ipsius Willi imperpetuum Et pro hac &c.

Capit & Cognit apud Chensford
in Com p̄dicto (talibus die
& anno) coram &c.

Walter Davis.

Mary Davis.

Will. Jones.

Eliz. Jones.

A Fine of the same, one Cognisee to three
Cognisors and their Wives.

Midō II. Precipe Johanni Gill & Sare Ux-
ori ejus Mattheo Hughs & Jane Uxori ejus &
Johanni Lowry & Ellene Uxori ejus qđ juste
et. Teneant Thome Pridmore Conventionem
et. de uno Cotagio uno Pozreo uno Stabulo
duobus Gardinis duobus Pomariis duobus Cur-
tilagiis centum Acris Terre viginti Acris
Prati quadraginta Acris Pasture viginti Acris
Bosci & quadraginta Acris Jampnozū & bz-
ere tum pertinenciis in Harrow super montem
& Porthal.

Et est Concordia talis scilicet qđ pđicti Jōhes
& Sara Mattheus & Jana & Jōhes & Ellena re-
cognoverunt pđicta tenementa cum pñenciis
esse jus ipsius Thome ut illi que idem Tho-
mas habet de dono pđictorū Johannis & Sare
Matthei & Jane & Johannis & Ellene Et illi re-
miserunt & quieti clamaverunt de ipsis Johanne
& Sara Mattheo & Jana & Johanne & Ellena &
heredibus suis pđicto Thome & heredibus suis
imperpetuum Et p̄terea iidem Johannes Gill
& Sara concesserunt pro se & heredē ipsius Sa-
re qđ ipsi Warant pđicto Thome & heredē
suis pđicta tenementa cum pñenciis contra
pđictos Johannem & Saram & heredes ipsius
Sare imperpetuum Et ulterius iidem Matthe-
us & Jana concesserunt pro se & heredibus ipsius
Jane qđ ipsi Warant pđicto Thome & heres-
dibus suis pđicta tenementa cum pertinenciis
contra pđictos Mattheum & Janam & heredes
ipsius Jane imperpetuum Et etiam iidem Jo-
hannes

Of the Practice of the

hannes Lowry & Ellena concesserunt pro se & heredibus ipsius Ellene quod ipsi Marant p̄dicto Thome & heredibus suis p̄dicta Tenementa cum pertinentiis contra p̄dictos Johannem & Ellenam & heredes ipsius Ellene imperpetuum Et pro hac, &c.

Capt & Cognit apud Wainford in
Cond p̄dicto.

John Gill.
Sarah Gill.
Matth. Hughes.
Jane Hughes.
John Lowry.
Ellena Lowry.

A Fine of the same, one Cognisee and four Cognifors and their Wives.

Buk. II. Precipe Johanni Parker & Marie Wrozi ejus Roberto Dearing & Jane Wrozi ejus Roberto Holmes & Elizabeth Wrozi ejus & Richardo Wigford & Sare Wrozi ejus quod fuisse &c. Teneant Willo Cole generoso conventionem &c. de uno Meluagio uno Cotagio uno Horreo uno Stabulo quatuor Acris Terre durabus Acris Prati & Communia Pasture cum p̄tid in Chipping Wiccombe. Et nisi &c.

A

A Fine Sur Cognisance de Droit, from several Cognisors to several Cognisees.

Ebor. G. Precipe Michaeli Butler & Susanne Uxoribus Thome Downes & Marie Uxoribus ejus Roberto Holmes & Jane Uxoribus ejus Georgio Hastings Armigero Johanni Studd generoso & Marie Uxoribus ejus Willo Pay & Marie Uxoribus ejus & Johanni Archer generoso quod iuste &c. Teneant Alexandro Jordan Johanni Anderson Stephano Rouse & Alexandro Stone generoso conventionem &c. de uno Mesuagio uno Pozreo uno Stabulo uno Gardino centum Acris Terre quadraginta Acris Prati & sex Acris Pasture cum p[ar]t[e] in Loxford Et nisi &c.

Et est Concordia talis scilicet quod predicti Michael & Susanna Thomas & Maria Robertus & Jana Georgius Johannes Studd & Maria & Johannes Archer recognoverunt predicta Tenementa cum pertinentiis esse jus ipsius Alexandri Jordan ut ille que iidem Alexander Johannes Anderson Stephanus & Alexander Stone habent de dono predictorum Michaelis & Susanne Thome & Marie Roberti & Jane Georgii Johannis Studd & Marie & Johannis Archer Et ille remiserunt & quiet claud de ipsis Michaele & Susanna Thoma & Maria Roberto & Jana Georgio Johanne Studd & Maria & Johanne Archer & heredibus suis predictis Alexandro Johanni Anderson Stephano & Alexandro & heredibus ipsius Alexandri Jordan imperpetuum Et preterea iidem Michael & Susanna concesserunt pro se & heredibus ipsius Susanne quod ipsi Marant predictis Alexandro Johanni Anderson

son Stephano & Alexandro & heredibus ipsius Alexandri Jordan predicta tenementa cum pertinentiis contra predictos Michaelem & Susanam & heredes ipsius Susanne imperpetuum Et ulterius iidem Thomas & Maria Uxor ejus concesserunt pro se & heredibus ipsius Thome quod ipsi Warant pōict Alexandro Johanni Anderson Stephano & Alexandro & heredibus ipsius Alexandri Jordan predicta tenementa cum pertinentiis contra omnes homines imperpetuum Et insuper idem Georgius concessit pro se & heredibus suis qđ ipsi Warant pō Alexandro Johanni Anderson Stephano & Alexandro & heredibus ipsius Alexandri Jordan pō tenementa cum pertinentiis contra predictum Georgium & heredes suos imperpetuum Et etiam iidem Johannes Studd & Maria Uxor ejus concesserunt pro se & heredibus ipsius Marie qđ ipsi Warant predictis Alexandro Johanni Anderson Stephano & Alexandro & heredibus ipsius Alexandri Jordan predicta tenementa cum pertinentiis contra predictos Johannem Studd & Mariam & heredes ipsius Marie imperpetuum Et etiam idem Johannes Archer concessit pro se & heredibus suis quod ipsi Warant predictis Alexandro Johanni Anderson Stephano & Alexandro & heredibus ipsius Alexandri Jordan predicta tenementa cum pertinentiis contra predictum Johannem Archer & heredes suos imperpetuum Et p hac &c.

Capit & Cognit apud Burford
in Com predicto.

A Fine of the same.

Ebor A. Precipe Petro Storer & Jane Wro-
 ri ejus Johanni Storer & Sare Wrozi ejus
 Willo Furd & Marie Wrozi ejus Willo Jus-
 tice & Elizabethhe Wrozi ejus Danieli Waite &
 Anne Wrozi ejus Michaeli Swinny & Marga-
 rete Wrozi ejus & Thome Fowler & Marie
 Wrozi ejus quod iuste &c. Teneant Georgio Kay-
 ner Henrico Elves Henrico Andrews & Roberto
 Wayly conventionem &c. de Manerio de Leeds
 cum pertin. Ac de uno Mesuagio uno Wurgagio
 duobus horreis duobus Stabulis uno curilagio
 uno Columbario sex Gardinis Mille acris Ter-
 re Mille & trescentis Acris prati quadringentis
 Acris Pasture centum Acris Bosci trescentis
 Acris Poze Mille Acris Tarnorum & Bruere
 communia Pasture pro omnibus averiis & com-
 munia Turbarie cum pertinenciis in Leeds
 Ferrybriggs Lurford Doncaster & in Parochiis
 de Pomfret & Furlingcon Et nisi &c.

Et est Concordia talis scilicet quod predicti
 Petrus & Jana Johannes & Sara Willus &
 Maria Willus & Elizabetha Daniel & Anna
 Michael & Margareta & Thomas & Maria re-
 cognoverunt predicta tenementa & communias
 cum pertinenciis esse ius ipsius Georgii ut illi
 que talem Georgius Henricus Henricus & Ro-
 bertus hant de dono predictor Petri & Jane Jo-
 hannis & Sare Willi & Marie Willi & Eliza-
 berthe Danielis & Anne Michaelis & Margarete &
 Thome & Marie Et illi remiserunt & quiet cla-
 maverunt de ipsis Petro & Jana Johanne & Sa-
 ra Willo & Maria Willo & Elizabetha Dani-
 ele

ele & Anna Michaele & Margareta & Thoma & Maria & heredibus suis predictis Georgio Henrico Henrico & Roberto & heredibus ipsius Georgii imperpetuum Et preterea iidem Petrus & Jana concesserunt pro se & heredibus ipsius Petri quod ipsi Warant predictis Georgio Henrico Henrico & Roberto & heredibus ipsius Georgii predicta tenementa & communias cum pertinentiis contra predictos Petrum & Janam & heredes ipsius Petri imperpetuum Et ulterius iidem Johannes & Sara concesserunt pro se & heredibus ipsius Johannis quod ipsi Warant predictis Georgio Henrico Henrico & Roberto & heredibus ipsius Georgii predicta tenementa & communias cum pertinentiis contra predictos Johannem & Saram & heredes ipsius Johannis imperpetuum Et insuper iidem Willielmus Wurd & Maria Wro: eius concesserunt pro se & heredibus ipsius Willielmi quod ipsi Warant predictis Georgio Henrico Henrico & Roberto & heredibus ipsius Georgii predicta tenementa & communias cum pertinentiis contra predictos Willum & Mariam & heredes ipsius Willi imperpetuum Et etiam iidem Willus Justice & Elizabeth concesserunt pro se & heredibus ipsius Willi quod ipsi Warant predictis Georgio Henrico Henrico & Roberto & heredibus ipsius Georgii predicta tenementa & communias cum pertinentiis contra predictos Willum & Elizabeth & heredes ipsius Willi imperpetuum Et etiam iidem Daniel & Anna concesserunt pro se & heredibus ipsius Danielis quod ipsi Warant predictis Georgio Henrico Henrico & Roberto & heredibus ipsius Georgii predicta tenementa & communias cum pertinentiis contra predictos Danielem & Anna & heredes ipsius Danielis imperpetuum Et etiam
iidem

iidem Michael & Margareta concesser' pro se & hered' ipsius Michaelis quod ipsi Warant p'dict' Georgio Henrico Henrico & Roberto & hered' ipsius Georgii p'dicta tenementa & communias cum pertinenciis contra p'dict' Michaelem & Margaretam & hered' ipsius Michaelem imperpetuum Et etiam iidem Thomas & Maria W'or'esus concesserunt pro se & heredibus ipsius Thome quod ipsi Warant p'dict' Georgio Henrico Henrico & Roberto & heredibus ipsius Georgii p'dicta tenementa & communias cum pertin' contra p'dictos Thomam & Mariam & hered' ipsius Thome imperpetuum Et pro hac &c.

Cap't & Cognit' apud Burlington
in Com' p'dicto.

A Fine of the same, one Cognisor to several
Cognisees.

Ranc. II. Precipe Willo Cole Armigero q'd iuste &c. teneat Willo May Armigero Georgio Knight Johanni Fisher Samuelli Harris & Willo Parsons convenconem &c. De uno Mesuagio cum pertinenciis in Sittingborne Et nisi &c.

Et est Concordia talis scit q'd p'dict' Willus Cole recogn' p'dictum Mesuagium cum ptin' esse jus ipsius Willi May ut ille q'd idem Willielmus Georgius Johannes Samuel & Willielmus Parsons henc de dono p'dicti Willi Cole Et ill' remisit & quiet' clamabit de se & heredibus suis p'dictis Willo May Georgio Johanni Samuelli

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Samueli & Willo Parsons & hered ipsius Willielmi Pay imperpetuum Et preterea idem Willus Cole concessit pro se & heredibus suis quod ipsi Warant p̄dict Willo Pay Georgio Johanni Samueli & Willo Parsons & hered ipsius Willi Pay p̄dict Mesuagium cum pertin̄ contra p̄dictum Willielmum Cole & heredes suos imperpetuum Et pro hac &c.

Capit & Cognit apud London.

A Fine of the same, two Cognisors to several Cognisees.

Kanc. ff. Precipe Georgio Rebil Armigero & Roberto North generoso quod iuste &c. Tenent Roberto Koch Johanne Dennison Stephano Strode Willo Love Georgio Humarston & Georgio Rayner generoso conventionem &c. De Manerio de Sittingborne cum pertin̄ Ac de decem Mesuagiis viginti Cotagiis quinq; Horreis uno Stabulo uno Columbario centum Gardinis centum Pomariis quingentis Acris Terre septingentis Acris Prati mille Acris Pasture centum Acris Fosci mille Acris Moe quingentis Acris Jampnozū & huerē Wilsu Franci Plegii & quicquid ad Wils Franc Pleg pertinet libera Warennā & libera Piscaria cum pertin̄ in Strode & Sittingborne Ac de Advocatione Ecclesie de Sittingborne Et nisi &c.

Et est Concordia talis scilicet quod p̄dict Georgius Rebil & Robertus North recognoverunt p̄dict Manerium Tenementa Warennam & Piscariam cum pertin̄ Ac Advocationem p̄dict esse

esse suis ipsius Roberti Koch ut ille que idem Robertus Johannes Stephanus Willus Georgius Humarston & Georgius Kayner hent de dono predictorum Georgii Nevil & Roberti Porch Et ille remiserunt & quiet clamaverunt de ipsis Georgio Nevil & Roberto Porch & hered suis pdict Robert Koch Johanni Stephano Willo Georgio Humarston & Georgio Kayner & heredibus ipsius Robed imperpetuum Et preterea idem Georgius Nevil concessit pro se & heredibus suis quod ipsi Warant pdict Robto Koch Johanni Stephano Willo Georgio Humarston & Georgio Kayner & heredibus ipsius Roberti pdicta Panerium Tenementa Warennam Piscariam & Wis Franc Pleg cum pind Ac Advocationem predictam cont predictum Georgium Nevil & heredes suos imperpetuum Et ulterius idem Robertus Porch concessit pro se & hered suis quod ipsi Warant pdict Roberto Koch Johanni Stephano Willo Georgio Humarston & Georgio Kayner & hered ipsius Roberti pdict Panerium Tenementa Warennam Piscariam & Wis Franc Pleg cum pind Ac Advocationem pdictam cont pdict Robertum Porch & hered suos imperpetuum Et p hac &c.

A Fine of the same, several Cognisors to several Cognisees.

At nco In. n. Precipe Thome Burbige & Marie Wrozi ejus Richardo Stone & Jane Wrozi ejus Christophero Littlewel & Marie Wrozi ejus Jacobo Long & Elizabeth Wrozi ejus Roberto Fowler & Sare Wrozi ejus Mattheo Taylor & Katherine Wrozi ejus Johanni Gill & Susanne

D d

fanne Wrozi ejus & Willielmo Cole & Ellene
 Wrozi ejus quod iuste &c. tenant Thome
 Winchcombe Willielmo Stanton Willielmo
 Bubb & Thome Wheeler Conventionem &c.
 De uno Meluagio uno Cotagio uno Porto uno
 Gardino uno Pomar centum Acris Werte cen-
 tum Acris Prati quinquaginta Acris Pasture
 centum Acris Bosci ducentis Acris Ampuor
 & hyere centum Solidat reddit & communia
 Pasture cum prind in Gainsborow Gancham &
 Stone Et nisi &c.

Et est Concordia talis scilt quod pdict Tho-
 mas Burbidge & Maria Richardus & Jana Chris-
 tophorus & Maria Jacobus & Elizabeth Robert
 & Sara Mattheus & Katerina Johannes & Su-
 lanna & Willus Cole & Ellena Recognoverunt
 pdict Tenementa Reddit & communia Pasture
 cum prind esse ius ipsius Thome Winchcombe
 ut ill que idem Thomas Willus Stanton
 Willus Bubb & Thomas Wheeler habent de
 dono pdictorum Thome Burbidge & Marie Ri-
 chardi & Jane Christopheri & Marie Jacobi & Eli-
 zabeth Roberti & Sara Mathei & Katerine Jo-
 hannis & Susanne & Willi Cole & Ellene Et
 ill remiserunt & quiet clamaverunt de ipsis
 Thoma Burbidge & Maria Richardo & Jana
 Christophoro & Maria Jacobo & Elizabeth Ro-
 berto & Sara Mattheo & Katerina Johanne &
 Susanna & Willi Cole & Ellena & heredibus
 suis pdictis Thome Winchcombe Willi Stan-
 ton Willi Bubb & Thome Wheeler & heredi-
 bus ipsius Thome Winchcombe imperpetuum
 Et preterea idem Thomas Burbidge & Maria
 Wrozi ejus concesserunt pro se & heredibus ipsius
 Thome quod ipsi Warant pdict Thome
 Winch-

Winchcombe Willto Stanton Willto Fubb &
 Thome Wheeler & heredibus ipsius Thome
 Winchcombe p̄dict Tenementa Reddit & com-
 muniam Pasture cum p̄iū contra p̄dictos Tho-
 mam Wurbidge & Mariam & heredes ipsius Tho-
 me imperpetuum Et ulterius iidem Richardus
 & Jana concesserunt pro se & heredibus ipsius
 Richardi quod ipsi Warant p̄dict Thome
 Winchcombe Willto Stanton Willto Fubb &
 Thome Wheeler & heredibus ipsius Thome
 Winchcombe p̄dict Tenementa Reddit & com-
 muniam Pasture cum p̄iū contra p̄dict Richardū
 & Janam & heredes ipsius Richardi imperpetuum
 Et insuper iidem Christopherus & Maria Wro-
 ejus concesserunt pro se & heredibus ipsius Chri-
 stopheri quod ipsi Warant p̄dict Thome
 Winchcombe Willto Stanton Willto Fubb &
 Thome Wheeler & heredibus ipsius Thome
 Winchcombe p̄dict Tenementa Reddit & com-
 muniam Pasture cum p̄iū cont p̄dict Christo-
 pherum & Mariam & heredes ipsius Christopheri
 imperpetuum Et eciam iidem Jacobus & Eliza^h
 concesserunt pro se & heredibus ipsius Jacobi
 quod ipsi Warant p̄dict Thome Winchcombe
 Willto Stanton Willielmo Fubb & Thome
 Wheeler & heredibus ipsius Thome Winch-
 combe p̄dicta Tenementa Reddit & communiam
 Pasture cum p̄iū contra p̄dictos Jacobum
 & Elizabeth & heredes ipsius Jacobi imperpetuum
 Et eciam iidem Robertus & Sara concesserunt
 pro se & heredibus ipsius Roberti quod ipsi
 Warant p̄dictis Thome Winchcombe Will-
 ielmo Stanton Willielmo Fubb & Thome
 Wheeler & heres ipsius Thome Winchcombe p̄dict
 Tenementa Reddit & communiam Pasture cum
 p̄iū cont p̄dictos Robertum & Saram & heres
 ipsius

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ipsius Roberti imperpetuum Et etiam iidem
 Mattheus & Katerina concesserunt pro se & here-
 dibus ipsius Matthei quod ipsi warant p̄dict
 Thome Winchcombe Willo Stanton Willo
 Bubb & Thome Wheeler & heredibus ipsius
 Thome Winchcombe p̄dicta Tenementa Redd
 & communiam Pasture cum p̄t̄n̄ contra pre-
 dictos Mattheum & Katerinam & heredes ipsius
 Matthei imperpetuum Et etiam iidem Johan-
 nes & Susanna concesserunt pro se & heredibus
 ipsius Johannis qđ ipsi warant p̄dict Thome
 Winchcombe Willo Stanton Willo Bubb &
 Thome Wheeler & heredibus ipsius Thome
 Winchcombe p̄dicta Tenementa Reddit & com-
 muniam Pasture cum p̄t̄n̄ cont̄ p̄dictos Johan-
 nem & Susannam & heredes ipsius Johannis
 imperpetuum Et etiam iidem Willus Cole &
 Ellena concesserunt pro se & hered ipsius Willi
 qđ ipsi warant p̄dictis Thome Winchcombe
 Willo Stanton Willo Bubb & Thome Whee-
 ler & heredibus ipsius Thome Winchcombe
 p̄dicta Tenementa Reddit & communiam Pa-
 sture cum p̄t̄n̄ contra p̄dictos Willm Cole
 & Ellenam & heredes ipsius Willi imperpetuum
 Et pro hac &c.

Capit & Cognit apud Grantham
 in Cond p̄dicto.

A Fine of the same with General Warrantys.

Ordon n. Precipe Thome Tipping Armig
 & Jane Wrozi ejus Thome Lucas & Elizabeth
 Wrozi ejus Johanni Wiat & Marie Wrozi ejus
 Johanni Baker & Marie Wrozi ejus Roberto
 Cooper & Jane Wrozi ejus Johanni Warlowe &
 Ras

Rachaeli Wrozi ejus Johi Jefferies & Sare
Wrozi ejus Thome Basket & Elizabethe Wrozi
ejus & Johi Butler & Susanne Wrozi ejus quod
juste &c. teneant Francisco Green Willto Green
Johi Green & Willto Watkins conventionem
&c. De Manerio de Horspach cum p̄t̄n Ac de
centum Meluagiis quadraginta Cotagiis vigin-
ti Toftis uno Molendino aquatico uno Molendi-
no ventritico quinque Horreis quatuor Stabulis
centum Gardinis centum Pomariis quingen-
tis Acris Terre quingentis Acris Prati cen-
tum Acris Pasture centum Acris Bosci libera
Maremma liba Piscaria Vis Franc Pleg
Pecnon de Rectoria Ecclesie de Horspach cum
p̄t̄n Ac etiam de omnibus & omnimodis decimis
oblationibus & obventionibus quibuscunque an-
nuatim provenien̄ crescen̄ seu renovan̄ in
Horspach Marston & Wheatley Et nisi &c.

Et est concordia talis scit̄ qđ predict Thomas & Jana Thomas & Elizabeth Johannes
Wiat & Maria Johannes Baker & Maria Ro-
bertus & Jana Johannes Barlowe & Rachael
Johannes Jefferies & Sara Thomas & Eliza-
b & Johannes Butler & Susanna recognover̄ p̄
Manerium Tenementa Marennam Piscariam
Vis Franc Pleg Rectoriam decimas oblacion̄
& obventiones cum p̄t̄n esse jus ipsius Fran-
cisci ut ill̄ que iidem Franciscus Willus Jo-
hannes Green & Willus hent de dono p̄dictor̄
Thome & Jane Thome & Elizabeth Johannis
Wiat & Marie Johannis Baker & Marie Ro-
berti & Jane Johannis Barlowe & Rachaelis
Johannis Jefferies & Sare Thome & Elizabeth
& Johannis Butler & Susanne Et ill̄ remis̄
& quiet̄ clamaverunt de ipsis Thoma & Jana
D d 3 Thoma

Thoma & Maria Johanne Baker & Maria Ros-
 berto & Jana Johanne Barlowe & Rachaele Jo-
 hanne Jefferies & Sara Thoma & Elizabeth &
 Johanne Butler & Susanna & heredibus suis
 p̄dictis Francisco Willo Johanni Green &
 Willo & heredibus ipsius Francisci imperpe-
 tuum Et p̄terea iidem Thomas Tipping &
 Jana Wroꝝ ejus concesserunt p̄o se & heredibus
 ipsius Thome quod ipsi warant p̄dictis Fran-
 cisco Willo Johanni Green & Willo & heredi-
 bus ipsius Francisci p̄dicta Panerium Tenementa
 Warennam Piscariam Vis Franc Pleg
 Rectoriam decimas oblationes & obventiones
 cum p̄iud cont omnes homines imperpetuum Et
 ulterius iidem Thomas Lucas & Elizabeth
 Concesserunt p̄o se & heredibus ipsius Thome qđ
 ipsi warant p̄dict Francisco Willo Johanni
 Green & Willo & heredibus ipsius Francisci
 p̄dicta Panerium Tenementa Warennam Pisc-
 cariam Vis Franc Pleg Rectoriam decimas
 oblationes & obventiones cum p̄iud cont omnes
 homines imperpetuum Et insup iidem Jōhes
 Wiat & Maria Wroꝝ ejus concesserunt p̄o se & he-
 redibus ipsius Jōhis qđ ipsi warant p̄dictis
 Francisco Willo Jōhi Green & Willo & here-
 dibus ipsius Francisci p̄dicta Panerium Tenementa
 Warennam Piscariam Vis Franc Pleg Rectoriam
 decimas oblationes & obventiones cum p̄iud
 contra omnes homines imperpe-
 tuum Et etiam iidem Jōhes Baker & Maria
 Wroꝝ ejus concesserunt p̄o se & heredibus ipsius Jo-
 hannis quod ipsi warant p̄dict Francisco Wil-
 lielmo Johanni Green & Willo & heredibus ip-
 sius Francisci p̄dict Panerium Tenementa
 Warennam Piscariam Vis Franc Pleg Rector-
 riam decimas oblationes & obventiones cum
 p̄iud

p^{ri}m cont omnes homines imperpetuum Et
 etiam iidem Robertus & Jana Wro^z ejus con-
 cesser^t pro se & heredibus ipsius Roberti quod
 ipsi Warant predictis Francisco Willo Johi
 Green & Willo & heredibus ipsius Francisci
 p^{ro}dict Panerium Tenementa Warennam P^{ro}-
 cariam W^{is} Franc Pleg Rectoziam decimas
 oblaciones & obventiones cum p^{ri}m cont omnes
 homines imperpetuum Et etiam iidem J^{oh}es
 Barlowe & Rachael concesser^t pro se & heredibus
 ipsius Johannis quod ipsi Warant p^{ro}dict Fran-
 cisco Willo Johanni Green & Willo & heredi-
 bus ipsius Francisci p^{ro}dicta Panerium Tene-
 menta Warennam P^{ro}cariam W^{is} Franc Pleg
 Rectoziam decimas oblaciones & obventiones
 cum p^{ri}m contra omnes homines imperpetuum
 Et etiam iidem Johannes J^{es}series & Sara con-
 cesser^t pro se & heredibus ipsius Johannis quod
 ipsi Warant p^{ro}dict Francisco Willo Johanni
 Green & Willo & hered^{ib} ipsius Francisci p^{ro}dict
 Panerium Tenementa Warennam P^{ro}cariam
 W^{is} Franc Pleg Rectoziam decimas oblaciones
 & obventiones cum p^{ri}m contra omnes homines
 imperpetuum Et etiam iidem Thomas Basket
 & Elizabeth concesserunt pro se & heredibus
 ipsius Thome q^{uo}d ipsi Warant p^{ro}dict Francisco
 Willo Johi Green & Willo & heredibus ipsius
 Francisci p^{ro}dict Paner Tenement Warennam
 P^{ro}car W^{is} Franc Pleg Rectoziam decimas
 oblaciones & obventiones cum pertinenciis
 contra omnes homines imperpetuum Et eci-
 am iidem Johannes Butler & Susanna con-
 cesserunt pro se & heredibus ipsius Johis q^{uo}d
 ipsi warant p^{ro}dict Francisco Willo Johi Green
 & Willo & hered^{ib} ipsius Francisci p^{ro}dicta Pa-
 nerium Tenementa Warennam P^{ro}car W^{is}

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Franc Pleg Rectoriam decimas oblaciones & obventiones cum p̄t̄m cont omnes homines imperpetuum Et pro hac &.

Capit & Cognit apud Oxon.

A Fine of the same with Ac contra's.

Clouē. ff. Precipe Johanni Castles & Marie Urozi ejus Thome Whitcomb & Sare Urozi ejus Johanni Porter & Jane Urozi ejus Thome Knight & Marie Urozi ejus Johanni Hill & Elizabeth Urozi ejus & Iosepho Wilson & Dorrothee Urozi ejus quod iuste &c. Teneant Nicholao Clerk Thome Brown Johanne Mswel & Richardo Mswel conuencionem &c. De uno Meluagio uno Cotagio uno Porreo uno Stabulo uno Curtilagio duobus Gardinis duobus Pomariis centum Acris Terre quadraginta Acris Prati quinquaginta Acris Pasture centum Acris Bosci & quingentis Acris Jampnozum & Buerē cum p̄t̄m in Cricklet Et nisi &c.

Et est concordia talis scilicet quod p̄dict Joes Castles & Maria Thomas Whitcomb & Sara Johannes Porter & Jana Thomas Knight & Maria Johannes Hill & Elizabeth & Iosephus & Dorrothea recognouer p̄dicta Tenementa cum p̄t̄m esse suis ipsius Nicholai ut illi que iidem Nicholaus Thomas Brown Johannes Mswel & Richardus habent de dono p̄dictorum Joes Castles & Marie Thome Whitcomb & Sare Johannis Porter & Jane Thome Knight & Marie Johannis Hill & Elizabeth & Iosephi & Dorrothee Et illi remiserunt & quiet clamaverunt de ipsis
Jo

Johanne Castles & Maria Thoma Whitcomb &
 Sara Johanne Porter & Jana Thoma Knight
 & Maria Johanne Hill & Elizabeth & Josepho &
 Dorothea & heredibus suis p̄dict̄ Nicholao Tho-
 me Brown Johanni Mwel & Richardo & hered̄
 ipsius Nicholai imperpetuum Et preterea iidem
 Johannes Castles & Maria Wro, ejus concesser̄
 pro se & heredibus ipsius Johannis quod ipsi
 warant p̄dictis Nicolao Thome Brown Johi
 Mwel & Richardo & hered̄ ipsius Nicholai pre-
 dicta Tenementa cum p̄t̄n̄ cont̄ p̄dict̄ Johem
 Castles & Mariam & hered̄ ipsius Johis Ac cont̄
 omnes alios clamant̄ p̄ p̄dict̄ Johem & Mariam
 impp̄n̄ Et ulterius iidem Thomas Whitcomb
 & Sara concesserunt p̄ se & hered̄ ipsius Sara qđ
 ipsi warant̄ p̄dict̄ Nicholao Thome Brown
 Johanni Mwel & Richardo & hered̄ ipsius Ni-
 cholai p̄dicta Tenementa cum p̄t̄n̄ cont̄ p̄dict̄
 Thomam Whitcomb & Saram & hered̄ ipsius
 Sara Ac cont̄ hered̄ Marie Stone defunct̄ ma-
 tris ipsius Sara imperpetuum Et insup̄ iidem
 Joes Porter & Jana concesser̄ p̄ se & hered̄ ipsius
 Johis quod ipsi warant̄ p̄dict̄ Nicholao Thome
 Brown Johanni Mwel & Richardo & hered̄ ip-
 sius Nicholai p̄dict̄ Tenementa cum p̄t̄n̄ cont̄
 p̄dict̄ Johannem Porter & Janam & hered̄
 ipsius Johannis Ac contra Richardum Porter
 fratrem ipsius Johannis imperpetuum Et etiam
 iidem Thomas Knight & Maria Wro, ejus con-
 cesser̄ pro se & hered̄ ipsius Thome quod ipsi
 warant̄ p̄dict̄ Nicholao Thome Brown Johi
 Mwel & Ricardo & hered̄ ipsius Nicholai p̄dict̄
 Tenementa cum p̄t̄n̄ contra p̄dict̄ Thomam
 Knight & Mariam & hered̄ ipsius Thome Ac
 cont̄ Thomam Knight patrem ipsius Thome &
 hered̄

hered suos imperpetuum Et etiam iidem Iohes Hill & Elizabeth concesser pro se & hered ipsius Elizabeth quod ipsi warant pdict Nicholao Thome Brown Johanni Olwel & Ricardo & hered ipsius Nicolai pdict Tenementa cum pnd contra pdict Johannem Hill & Elizabeth & hered ipsius Elizabeth Ac cont omnes alios clamand p pdict Elizabeth imperpetuum Et etiam iidem Iosephus & Doorothea concesser pro se & hered ipsius Iosephi qd ipsi warant pdict Nicholao Thome Brown Johanni Olwel & Ricardo & hered ipsius Nicolai pdict Tenementa cum pnd cont pdict Iosephum & Doorotheam & hered ipsius Iosephi Ac cont hered Iohis Willson defunct imperpetuum Et pro hac &c.

Capit & Cognit apud Tewkesbury
in Com pdicto.

A Fine of the same, several Cognisors to
one Cognisee.

Heress. n. Precipe Carolo Davenant legum
Doctori & Francisce Wrozi ejus Alexandro
Davenant Armigero Thome Davenant Armigero
Andree Card generoso Rogero Hewet ge-
neroso Richardo Miller generoso Edwardo Si-
ston generoso Elizabeth Clerk vidue Johanni
Waller Armigero Willo Millman generoso
& Thome Fowkes generoso quod iuste &c. Te-
neant Henrico Cornwal Armigero conventio-
nem &c. De Castro de Bredwardine alias
Broadwardine cum pnd Ac de Maneriis de
Bredwardine alias Broadwardine Mockas
Naugh-

Waugbans Court Parky Grobe Cuslop Radnoz
 & Wilmiston cum pertinē Recnon de Parco de
 Parky Grobe cum p̄tinē Ac etiam de viginti
 Meluag viginti Cotaq̄ duobus Molendin aqua-
 ricis duobus Columbar viginti Gardin viginti
 Pomar mille Acris Terre ducent Acris Prati
 odingent Acris Pasture centum Acris Bosci
 mille Acris Jamnozū & Buere & Wiſ
 Franc Pleg cum pertinenciis in Wredwardine
 Pockas Cuslop Radnoz Dozſton Grobe & Wilm-
 miston Ac de Libera Piscaria in aqua de Wye
 Recnon de Advocatione Ecclesie de Pockas Et
 Pisi &c.

Et est concordia talis scilicet quod p̄dict Car-
 lus & Francisca Alex. Thomas Andreas Robert
 Richard Edward & Elizabeth Johannes Wil-
 lielmus & Thomas recognoverunt p̄dicta Castr
 Paneria Parcū Tenementa Wiſ Franc Pleg
 & Piscariam cum p̄tinē Ac Advocationem p̄dict
 esse jus ipsius Henrici ut illi que idem Henric
 habet de dono p̄dictorum Caroli & Francisce
 Alexandri Thome Andree Robti Richdi Ed-
 wardi & Elizabeth Johannis Willielmi & Tho-
 me Et illi remiserunt & quiet clam de ipsis
 Carolo & Francisco Alexandro Thoma Andrea
 Roberto Ricardo Edwardo & Elizabeth Johanne
 Willo & Thoma & hered suis p̄dict Henrico
 & hered suis imperpetuum Et p̄terea iidem Ca-
 rolus & Francisca concesserunt pro se & heredibus
 ipsius Caroli quod ipsi warant p̄dicto Henrico &
 heredibus suis p̄dict Castrum Paneria Parcū
 Tenementa Wiſ Franc Pleg & Piscariam cum
 p̄tinē Ac Advocationem p̄dictam contra p̄dict
 Carolum & Franciscum & heredes ipsius Caro-
 li impertuum Et ulterius idem Alexander con-
 cessit

cessit pro se & heredibus suis quod ipsi warant
 p̄dicto Henrico & heredibus suis p̄dicta Ca-
 strum Maneria Parcum Tenementa Wiſ
 Franc Pleg & Piscariam cum p̄tinē Ac Advo-
 cationem p̄dictam contra p̄dictum Alexandrum &
 heredes suos imperpetuum Et insuper idem
 Thomas Davenant concessit pro se & hered
 suis quod ipsi warant p̄dicto Henrico & heredibus
 suis p̄dicta Castrum Maneria Parcum Tene-
 menta Wiſ Franc Pleg & Piscar cum p̄tinē Ac
 Advocationem p̄dictam cont p̄dictum Thomam &
 hered suos imperpetuum Et eciam idem Ro-
 gerus concessit pro se & heredibus suis quod
 ipsi warant p̄dicto Henrico & heredibus suis
 p̄dicta Castrum Maneria Parcum Tene-
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 cardum & hered suos imperpetuum Et eciam
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 dibus suis p̄dicta Castrum Maneria Parcum
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 cum p̄tinenciis Ac Advocationem p̄dictam
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cont predictum Edwardum & heredes suos
imperpetuum Et etiam eadem Elizabeth concessit
pro se & heredibus suis quod ipsi wa-
rant predicto Henrico & heredibus suis pre-
dicta Castrum Paneria Parcum Tenementa
Viz Franc Pleg & Piscariam cum pertinenciis
Ac Advocationem predictam cont predicta
Elizabeth & heredes suos imperpetuum Et
etiam idem Johannes concessit pro se & heredi-
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warant predicto Henrico & heredibus suis
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tuum Et pro hac &c.

Capit & Cognit apud Hereford
in Com predicto.

A Fine, two Heireffes Cognisees.

Veress. R. Precipe Francisco Perry Senioꝝ Johanni Powle genolo & Marie Wroꝝ ejus Edwardo Galliers genolo & Sare Wroꝝ ejus & Johanni Wedford quod iuste &c. Veniant Elizabeth Powle Spinster & Sare Powle Spinster conventionem &c. De tribus Decemagitis tribus Cardinis duobus Pomariis centum & viginti Acris Terre quadraginta Acris Prati & octoginta Acris Pasture Ac de Medietate duarum Acray Prati centum Acray Pasture quadraginta Acray Jampnozum & Bzuer & viginti Acray Bosci cum pertinentiis in Shoppdon Hope subter Dunmore Westhide & Parpole Et nisi &c.

Et est concordia talis scilicet quod predicti Franciscus Johannes & Maria Edwardus & Sara Wroꝝ ejus & Johannes recognoverunt predicta tenementa & Medietatem esse Jus ipsarum Elizabeth & Sare Powle ut illi quicquidem Elizabeth & Sara habent de dono predictorum Francisci Johannis & Marie Edwardi & Sare Wroꝝ ejus & Johannis. Et illi remiserunt & quiet clamaverunt De ipsis Francisco Johanne & Maria Edwardo & Sara Wroꝝ ejus & Johanne & heredibus suis predictis Elizabeth & Sare Powle & heredibus ipsarum Elizabeth & Sare imperpetuum Et preterea idem Franciscus concessit pro se & heredibus suis quod ipsi warant predictis Elizabeth & Sare Powle & heredibus ipsarum Elizabeth & Sare predicta Tenementa & Medietatem cum
per

pertinenciis contra predictum Franciscum &
 heredes suos imperpetuum Et ulterius iidem
 Johannes Powle & Maria concesserunt pro se
 & heredibus ipsius Marie quod ipsi warant pre-
 dictis Elizabeth & Sare Powle & heredibus ip-
 sarum Elizabeth & Sare predicta Tenementa &
 Medietatem cum pertinenciis contra omnes
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 se & heredibus ipsius Sare quod ipsi warant
 predictis Elizabeth & Sare Powle & heredibus
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 nes Bedford concessit pro se & heredibus suis
 quod ipsi warant predictis Elizabeth & Sare
 Powle & heredibus ipsarum Elizabeth & Sare pre-
 dicta Tenementa & Medietatem cum pertinen-
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Capt. & Cognit. apud Kimbolton
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- But where her Lands are recovered by Cessavit, (by his default) and she surcease, during the Espousals, if she dies she shall not have a Cui in vita for recovery thereof* *ibid.*
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Errata.

The Reader is desired to alter the Folio's of the Book, to make them agreeable with the Table.

PAge (196, but really) 214. Line 7. for *days* read *years*. p. (112, really) 228. l. 15. for *of Gift*, r. *or Gift*.

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